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ABSTRACT

This document quotes from and summarizes each of the 50 states' constitutional and statutory provisions establishing the structure, the power, and the duties of the various state committees, commissions, offices, and agencies affecting the governance and control of education. Detailed investigation of the formal body of law revealed the subtle differences between the states, differences frequently glossed over in attempts to find common patterns among the states' educational laws. The information presented is intended to be accurate and current up to the 1979 state legislative sessions, but is not expected to be comprehensive or to serve as a final authority in litigation. The material provides baseline data for further research. Presentation of each state's laws is divided into sections dealing with constitutional and statutory provisions, and with legislative oversight, the establishment of education, and gubernatorial powers. Brief summaries and charts at the end of the document compare the general state provisions in the areas of governance of elementary and secondary education, governance of postsecondary education, review of administrative rules and regulations, and gubernatorial powers. (Author/PGD)

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PROVISIONS OF STATE CONSTITUTIONAL AND STATUTORY LAW GOVERNING THE STRUCTURE OF EDUCATION

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Certainly I should like to acknowledge and thank Mrs. Marjorie Kirtley of the Virginia State Law Library for her great kindness and understanding as I sat on her doorstep and perused the stacks for which she is responsible. Her initital sympathy for a resolute professor who only faintly understood the magnitude of the task which he was commencing is now all the more appreciated.

Several graduate students in Education Administration were involved in drafting some of the individual state summaries. The routine of the work proved, it seemed, something less than exhilarating, but slowly grind they did. Especial thanks to Ms. Carol Ritchie, to Mr. Al Gaines, and to Mr. Arthur Aaronson.

Ms. Wanda D. Hodge, Ms. Sandra Gravely, Ms. Carolyn Lawson and Ms. Anita Pirkle are also to be acknowledged for the drafts which they typed. The twice and three times corrected drafts made for anything but an easy task, but their concern and good humor prevented the volume from becoming an onerous undertaking.

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INTRODUCTION

If consistency were a valued commodity in the governance and control of education throughout the states, such is not evident from a review of the formal statutory authority. Indeed, putting the matter positively, one might say that federalism is alive and well, the several states being very much in control of establishing the critical levers--who decides what--in education.

Anyone who is familiar with the governance of education would recognize immediately that the finding of variability can hardly be attributed as a discovery of this study. What is attempted here is, rather, more of a detailing of the known variability* through the summarization of those constitutional and statutory provisions in each state which establish the structure and the power and duties of various state committees, commissions, offices and agencies.

Purpose

The purpose of this study, however, went beyond mere confirmation of what is known in common parlance. Through detailed investigation of the formal body of law it was possible to thread through some of the nuances of differences which tend to become summed over in more general treatments of the topic. Formal authority is important in any account, but whether that authority is constitutional or statutory in origin becomes crucial, for example, with the advent of sunset laws, for obviously a state law cannot sunset a constitutional body. Or, to cite a different kind of example, it is more than merely interesting to know who in the state has the authority--sole authority or otherwise--to apply for, administer, and expend federal dollars flowing to education. This becomes important only in the wake of the determination of state legislators to "re-appropriate" moneys from the federal coffers.

No claim is made that the present work is entirely comprehensive or complete. Even as voluminous as it is, many compromises concerning detail had to be made, in keeping with the original intent to offer a summary. Perhaps the most helpful, certainly the easiest, way of dealing with the topic would have been to offer verbatim copy of the law, but the result would have been an unwieldy volume of several hundred pages, perhaps even two thousand or more. The compromises or omissions which were made then, deserve especial recognition.

*See Robert F. Will State Education: Structure and Organization, Washington, DC, Department of HEW; and Sam Harris, an update of that publication, 1973; Gerald R. Sroufe, "State School Board Members and the State Education Policy System," Planning and Changing, Vol. 2, #1, April 1971; Council of State Governments, State Constitutional Provisions Relating to State Boards of Education and State Superintendents, Lexington, Kentucky, 1971; and Roald Campbell and Tim Mazzoni, State Governance Models for the Public Schools, Columbus, Ohio State University, 1974.

Omissions

To be unmistakeably clear on the point, it should be asserted that the law as quoted and summarized here should not be used as final authority in formal litigation. It is accurate, but not comprehensive, it is current, but generally only to but not inclusive of the 1979 state legislative sessions. The primary intent is that of research or, more accurately, to provide baseline data for further research. It is hoped that both the substantive findings as well as the citations will prove helpful to others as future work is done in the area.

It is regrettable but nonetheless probably true that some unintentional omissions have been made. The magnitude of the task of dealing with all 50 states has been exacerbated by the peculiarities of coding and of indexing. Regarding the former, it is not at all unusual to find citations dealing explicitly and directly with education under several different chapters or titles. Often many volumes had to be searched to complete the structure. What made the task most onerous, however, was that to find even a single entry might require scanning in several volumes of indices. To find an entry regarding legislative performance audit, for example, might well require seven to ten attempts. Frustration undoubtedly took its toll.

More specifically, the omissions of powers and duties of the boards, departments, agencies and then heads tended to be those duties which were either obvious (e.g. internal organization) or somewhat common and not entirely helpful to our purpose (e.g. provide leadership). A reference back to the citation would be needed to determine the entire specificity of the law, but let it suffice here to note that in some states the powers and duties of, for example, the state board of education would be described in a single paragraph, with other duties implied elsewhere, and in other states, the description of statutory requirements goes on for pages. In no instance is every power or duty completely detailed.

One of the more serious but deliberate omissions occurs in the area of legislative oversight. It is assumed that each legislature has one or more standing committee(s) for the review of all budgets effecting education. For this reason, no case was made for these committees as general oversight committees of the legislature. Of course every acknowledgement is made that these are unequivocably the most important form of oversight available to the legislature, not only to education but to every facet of state government. In this sense, the finance and appropriation committees are the heart of the legislature and hold the trump cards in any statement of who does what.

Finally, the section on gubernatorial oversight was greatly abbreviated with the publication (when the present project was about half completed) by ECS on the gubernatorial role in education grievance.*

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*Doris Ross, ed., "The Role of the Governor in Education: An Information Overview", Denver, Education Commission of the States, 1979.

That document does not offer the constitutional or statutory citations of important functions of the governor, but is in other ways more complete than could have been contemplated by the present volume. What is contained here then, are highly abbreviated descriptions with citations of formal authority. Also described are legislative provisions which cite the crucial role of the governor in budget development and presentation.

Summaries

Some summary and discussion is offered following the individual state summaries. The purpose of this section is to offer only preliminary analyses and may be best used in conjunction with other work cited in the bibliography.

A major shortcoming of a study of the authoritative or institutional structure only is that the law does not necessarily describe the actual operation. Legislative or policy intent is not synonomous with reality. Formal procedures which are on the books may be totally ignored in practice and informal procedures, which appear nowhere in written form, might well be crucial to the function of an organization. Certainly the present study suffers from the limitation of not testing the reality of the law in each state, but such a task must be left to future research.

ALABAMA

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Art. XIV, Sec. 256 (as amended by Amend. 111): "It is the policy of the State of Alabama to further and promote the education of its citizens in a manner and extent consistent with its available resources, and the willingness and ability of the individual student, but nothing [herein] shall be construed as creating or recognizing any right to education...at public expense, nor as limiting the authority and duty of the legislature, in furthering or providing for education, to require or improve conditions or procedures deemed necessary to the preservation of peace and order."

2. Governance: Art. XIV, Sec. 284. The state board of education is elected as prescribed by legislature. The chief state school officer is the state superintendent of education who is appointed by and serves at the pleasure of the state board of education.

3. Powers and duties: Art. XIV, Sec. 284. General Supervision of the public schools is vested in the state board of education. "The authority and duties of the superintendent of education shall be determined by the state board of education according to such regulations as the legistature may prescribe." Sec. 258-260 requires the use of specified funds for educational purposes.

B. Higher Education

1. General: Art XIV, Sec. 256; Sec. I-A-1, supra.

2. Governance: Art. XIV, Sec. 264. The board of trustees of the state university is composed of two members from the congressional district in which the university is located, one from each of the other congressional districts, the superintendent of education, and the governor who serves as ex-officio president of the board. Trustees serve twelve year terms; remaining members of the board elect, by secret ballot, successors to the board, subject to senate confirmation.

3. Powers/duties: Art. XIV, Sec. 264. The board of trustees is responsible for "the management and control" of the state university.

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

   a. Structure: Sec. 16-3-1 that the State Board of Education be composed of legal members elected by congressional districts to serve four year terms and the governor as an ex-officio member.

   b. Powers/duties of state: Sec. 16-3-11 et.seq. The state board of education exercises "through the superintendent, general control and supervision over public schools of the state", excluding the state university (Sec. 16-3-11). Other duties and powers of state board include: prescribing rules and regulations for operation of public schools (Sec. 16-3-12) for standardizing public schools (Sec. 16-31-14), for "minimum contents of courses of study for all public elementary and high schools" (Sec. 16-3-15), for governing the training and the certification of public school teachers (Sec. 16-3-16), and for reviewing and acting upon local action related to finance in other matters of educational interest (Sec.16-3-27). The board must submit to the governor an annual report concerning all operations of the state board of education (Sec. 16-3-21).

3. Chief State School Officer
Sec. 16-4-1 : the state superintendent of education is the chief executive officer of the state department of eudcation, is "appointed by the state board of education" for a control period not to exceed four years. Sec. 16-4-4 et. seq. provides that the state superintendent of education make annual apportionment of school funds to counties of the state (Sec. 16-4-5), that he execute the educational policy of the state board of education (Sec. 16-4-6), and that he prepare, for board approval, the state department of education quadrenniel budget (Sec. 16-4-15), proposed legislation for development and improvement of public schools (Sec. 16-4-20), and the annual report of state department of education (Sec. 16-4-18).

4. Department of Public Instruction Sec. 16-4-1 et. seq.; See II-A-3, supra.

B. Higher Education

1. General: As stipulated in Sec. 16-5-10, the Commission on Higher Education "shall work with and support the respective boards [of trustees] and act in a fact-finding and advisory capacity".

2. Board/Agency

   a. Structure: Sec. 16-5-2 and 16-5-3. The Commission consists of nine members (one from each U.S. Congressional district and one from the state at large), who are appointed by the governor with the senate's consent (Sec. 16-5-2). Appointments are made for nine years with one term expiring each year (Sec. 16-5-3-(a) and "without regard to political affiliation" (Sec. 16-5-2).

   b. Powers/duties: Sec. 16-5-2 and 16-5-5 et. seq. The commission serves in "an advisory capacity to the legislature and to the governor with respect to all matters pertaining to state funds for the operation and the allocation of funds for capital improvement of state supported institutions of higher education (Sec. 16-5-3). Other duties and powers of the commission include: analyzing budget requests of separate institutions and submitting to legislature a consolidated higher education budget (Sec. 16-5-7). The commission recommends action, without having formal authority to approve or disapprove, on the establishment or any new unit of instruction, research, or public service (Sec. 16-5-6); it must develop criteria for changing degree-granting status (or role and scope of existing institutions) and for determining need for new institutions (Sec. 16-5-8). In addition, the commission recommends proposed legislation and advises the governor, at his request, on matters pertaining to higher education (Sec. 16-5-6) and submits financial needs reports and a biennial report of commission's activities to the governor and to the legislature (Sec. 16-5-8). An executive director for the commission is authorized (16-5-4).

PROVISIONS FOR LEGISLATIVE OVERSIGHT AFFECTING EDUCATION

III. A. Legislative Fiscal Office

Sec. 29-5-1, et. seq. The legislative fiscal office which is under the supervision of the joint committee, is composed of ten members, nine from the legislature, and the lieutenant governor. The director of fiscal office is appointed by the joint fiscal committee. The office provides, to the house ways and means and senate finance and taxation committees, information regarding budget, appropriation bills revenues (Sec. 29-5-7). The director of the office is authorized to secure branch and regulatory agencies and commissions of the state (Sec. 29-5-5) and 2) the legislative reference service and the department of examiners of public accounts (Sec. 29-5-6). The director may..."develop techniques for the evaluation of budgetary matters" (Sec. 29-5-10).

B. Legislative Council

Sec. 29-6-1 et. seq. creates a "Legislative Council" which consists of 18 members of the legislature (Sec. 29-6-2). The duties of the legislative council include: requesting legislative studies to be undertaken, examination of the "effects of constitutional provisions and statutes of the state...and the effectiveness of operation of state and local government"...(Sec. 29-6-6) and preparing bills for legislation (Sec. 29-6-6).

C. Alabama Education Study Commission

The "Alabama Education Study Commission", created by this permanent agency of the state, is composed of eight members, one from each U.S. Congressional district, appointed by the governor for eight year terms. The commission is authorized to: employ an executive director and other personnel, made audits, surveys, and studies of education (Sec. 16-6-3) and report annually to the legislature regarding current status and recommendations for change of educational policy, financial needs for all levels of public education for a two year period (including appropriations, revenues and capital outlay), and recommendations for methods of financing public education and disbursement of public education funds "among the various types of educational institutions" (Sec. 16-6-4). Also the Commission has "full power and authority to summon and examine all school and college officials and state and local officials and require the production of such books, papers, documents, records, and memoranda" as may be needed by it (Sec. 16-6-5).

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals:

Governor appoints, with senate confirmation, nine members of the Commission on Higher Education (Sec. 16-5-2; Sec. II-B-2a, supra) and appoints eight members of Alabama Education Study Commission (Sec. 16-6-1, Sec. III-C, supra).

B. Budget:

The Governor "shall account to the legislature, as prescribed by law, for all moneys received and paid out by him by his orders; and at the commencement of each regular session, he shall present to the legislature estimates of the amount of money required to be raised by taxation for all purposes" (Const., Art. V, Sec. 123).

C. Other

1. The governor gives a "written message on the condition of state" to the legislature at the beginning of each regular session and at the end of his term of office (Const., Art. V, Sec. 123).

2. The governor serves as ex-officio member of the state university board of trustees (See Const., Art. XIV, Sec. 264; Sec. I-B-2, supra). The governor serves as ex-officio member and president of State Board of Education, (Sec. 16-3-1 and 16-3-2; Sec. II-A-2, supra).

ALASKA

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Art. VII, Sec. 1. "The legislature shall establish and maintain a system of public schools open to all children" and may provide for other public educational institutions.

2. Governance

3. Powers and duties of the state

B. Higher Education

1. General: See Art. VII, Sec. 1, supra.

2. Governance: Art. VII, Sec. 2 and 3. The University of Alaska is constituted as a corporate body (Sec. 2) and is governed by a board of regents. The regents are appointed by the governor, subject to confirmation by a majority of the legislature in joint session (Sec. 3).

3. Powers and duties of the state: Art. VII, Sec. 3. "The board shall, in accordance with law, formulate policy and appoint the president of the university" who shall be the executive officer of the board.

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

a. Structure: Sec. 14.07.075, et. seq. The State Board of Education is composed of seven members (of whom no more than four may be members of some political party as the governor) who are appointed by the governor, subject to legislative confirmation, for overlapping five year terms. Of the seven members, one member is appointed from each of the four judicial districts and three from the state at large.

b. Powers/Duties: In addition to the duties and powers of the Department of Education, which includes the state board (Sec. 14.07.010, et seq.), the board appoints a commissioner (Sec. 14.07. 145), may appoint unpaid advisory committees and require school boards and personnel to submit to the department the district budget as any information deemed necessary for department's execution of its functions (Sec. 14.07.170). Also the board is authorized to "promulgate regulations" under the Administrative Procedures Act (AS 44.62), "which are necessary to carry out the provisions of this title". See also Department, post.

3. Chief State School Officer

   a. Structure: Sec. 14.07.145 The commissioner of education is appointed, subject to the governor's approval, by the state board of education for a term "not to exceed five years".

   b. Powers/duties: Sec. 14.07.150 "The commissioner has responsibility for the preparation and execution of a budget and for other fiscal affairs of the department of education, subject to approval of the board." See also Department, post.

4. Department of Public Instruction

   a. Structure: Sec. 14.07.010 "The Department of Education includes the commissioner of education, the state board of education and the staff necessary to carry out the functions of the department."

   b. Powers/duties: Sec. 14.07.020 (duties), Sec. 14.07.030 (powers) The duties of the department include: providing general supervision over the public schools, except the state university; prescribing "a minimum course of study for all public schools; prescribing health and safety conditions for schools; and recommending plans for the improvement of the public schools. The department is authorized to: "establish, maintain, govern, operate... schools" and acquire and transfer personal and real property.

B. Higher Education

1. General: Sec. 14.40.901 "The Legislature...declares that it has become essential...to provide for a more efficient use of financial resources...in providing post-secondary educational services to its citizens "via" coordinated, comprehensive planning." However, the legislature affirmed that "legal authority for the operation and management of the statewide university system remains with the Board of Regents..." (see Const., Art. VII, Sec. 2, supra).

2. Board/Agency

   a. Structure: Sec. 14.40.903, 913 Within the department of education but "not subject to direction of commissioner or state board" (Sec. 14.40.913) is the Commission on Post-secondary Education. The commission consists of thirteen members, of whom "five persons broadly and equitably representative of the general public" are appointed by the governor for four year staggered terms. Six members are affiliated with educational institutions or agencies and are appointed by those institutions or agencies. Two members are from the legislature, one designated by the Legislative Council (See III-A, post) and are by the Legislative Budget and Audit Committee (See III-B, post).

b. Powers/duties: Sec. 14.40.909,.911, .913 The commission is "advisory to public and private institutional governing boards, the governor and the legislature..." in coordinating development of comprehensive post-secondary education plans; reviewing annual budgets and capital outlay requests and commenting as to general level of support requested; and in advising as to the role and scope of public and private institutions and the programs appropriate for each institution. In addition, the commission is authorized to require public and private post-secondary institutions "to submit data on matters pertinent to effective planning and coordination for transmittal to the legislature and other state and federal agencies." Also the commission may appoint an executive officer who serves at the commission's pleasure and appoints persons to staff positions authorized by the commission (Sec. 14.40.913).

III. Provisions for Legislative Oversight Affecting Education

A. Legislative Council

Sec. 24.20.010 The establishment of the council, a permanent committee and service agency, "recognizes the need of the legislature for full-time technical assistance...and general administrative services essential to the development of sound legislation in the public interest." Sec. 24.20.020, .050 The legislative council is composed of fourteen members: the senate president and six other senators and the speaker of the house and six other members. The council is authorized to have an executive director who serves as the executive officer of the council and serves at its pleasure (Sec. 24.20.020, .050). Among the powers of the legislative council are: executing a program for the oversight of the administration and construction of laws by state agencies and the courts through regulations, opinions and final decisions to determine whether or not the courts and agencies are properly administering legislative intent; and conducting a "continuing program for the revision and publication of acts of the legislature" (Sec. 24.020, .060).

B. Legislative Budget and Audit Committee

The establishment of this committee, a permanent committee of the legislature, "recognizes the need of legislature for full-time technical assistance in accomplishing the fiscal analysis, budget review, and post-audit functions" (Sec. 24.20.15). Under Sec. 24.20.161, the committee is composed of ten members of the legislature. The committee has the power (Sec. 24.20.201): to prescribe procedures for the comprehensive fiscal analysis, budget review and post-audit functions; to hold public hearings, subpoena witness, compel attendance and production of documents; to "review revenue projections, state agency appropriation requests the expenditure of state funds, including the relationships between state agency program accomplishment"; and to review and approve proposed changes to agency authorized budgets as provided in Executive Budget Act (AS37.07). See Sec. 37.07.020 concerning responsibilities in budget development.

C. Legislative Finance Division

The "Legislative Finance Division" is established as a permanent staff agency to the Legislative Budget and Audit Committee for performance of fiscal analysis and budget review functions (Sec. 24.20.211). Among other duties, the legislative finance division analyzes the budgets and appropriations requests of each department, institution, board or other agency of state government (Sec. 24.20.231).

D. Legislative Audit Division

The "Legislative Audit Division" is established as a permanent staff agency responsible to the Budget and Audit Committee for completion of the post-audit functions (Sec. 24.20.241). Among the powers and duties (Sec. 24.20.271) of the legislative audit division are: conducting performance post-audits of boards and commissions designated in AS 44.66.010 and of those programs and activities subject to termination through law; requiring "the assistance and cooperation of all state officials and other state employees in the inspection, examination, and audit of state agency books and accounts"; and, having "access at all times to books, accounts, reports, or other records, whether confidential or not, of every state agency", including the state university.

E. Administration Regulation Review Committee

The establishment of this permanent legislative committee "recognized the need for prompt legislative review of administrative regulations filed by the lieutenant governor to determine whether annulment under AS 44.62.320 is appropriate". Under Sec. 24.20.410, .450, the committee is composed of six members: three members of the house and three members of the senate. "The Legislative Affairs Agency shall provide the committee with professional and clerical assistance under the auspices of the Legislative Council (Sec. 24.20.450). Among the powers of the committee are: examining all administrative regulations to determine if they properly implement legislative intent; and, making recommendations for legislative annulment of administrative regulations (Sec. 24.20.460).

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals

The governor appoints the board of regents of state university (Const., Art. VII, Sec. 3; See I-B-2, supra). The governor also appoints five of thirteen members of Commission on Post-secondary Education (Sec. 14.40.913; See II-B-2a supra.), and subject to confirmation by the legislature meeting in joint session, seven members of State Board of Education (Sec. 14.07.075; See II-A-2a, supra.). Also, the appointment of the Commissioner of Education by the state board of education is subject to the governor's approval (Sec. 14.07.145; See II-B-3a, supra.).

B. Budget

Sec. 37.07.020 requires the governor to submit a comprehensive budget to the legislature, covering all proposed state expenditures, all moneys received from the federal government, and appropriation bill and a bill recommending new revenues should such be needed.

ARIZONA

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

  A. Lower Education

    1. General: Art. XI, Sec. 1 "The legislature shall enact such laws as shall provide for the establishment and maintenance of a general and uniform public school system...." Included are kindergarten and all elementary - secondary schools, normal and industrial schools, a university and special schools.

    2. Governance: Art. XI, Sec. 2 "The general conduct and supervision of the public school system shall be vested in a State Board of Education, a State Superintendent of Public Instruction, county school superintendents, and such governing boards for the state institutions as may be provided by law." Sec. 3 mandates that the state board consist of the state superintendent, a university or college president, three lay members, a junior college president, a superintendent of a high school district, a classroom teacher, and a county superintendent. Each, except for the state superintendent, is appointed by the governor. Art. XI, Sec. 8 provides for a permanent school fund, derived from the sale of public school lands, to be held for the financing "common and high school education...."

  B. Higher Education

    1. General: Art. XI, Sec. 1; See I-A-1, supra.

    2. Governance: Art. XI, Sec. 5 "The Regents of the University and the governing boards of other state educational institutions, shall be appointed by the governor with the consent of the senate..., except that the governor shall be, ex-officio, a member of the board of regents of the University."

    3. Powers/duties of the state:

STATUTORY PROVISIONS

II. Establishment Provisions

  A. Lower Education

    1. General

    2. Board

      a. Structure: Sec. 15-101.01 reaffirms Art. XI, Sec. 2 of the constitutions.

b. Powers/duties: Sec. 15-102. The state board of education shall, among other duties, prepare, publish, and distribute reports concerning the educational welfare of the state and make recommendations to the legislative. It shall also prescribe and enforce a course of study in the common schools. Also it will determine the policy and work undertaken by the board, prepare a budget for legislative presentation, determine credits for graduation, determine entry level job skills, have oversight for teacher certification, and adopt a uniform evaluation for the schools.

3. Chief State School Officer

a. Structure: Sec. 15-111 "The departement of education is administered through the State Superintendent of Public Instruction in whom all executive, administrative and ministerial functions of the education." Under Sec. 15-121 his powers shall be subject to supervision by the state board of education.

b. Powers/duties: Sec. 15-123 The state superintendent of public instruction shall make an annual report, containing the amount of all funds and property apportioned for the purpose of education. The report contains the number of children attending the schools, and amount of money derived from taxes, and amount of money expended for salaries of teachers and for building of schools. The report is to be submitted annually to the governer and the legislature. For futher duties, see Sec. 15-122.

4. Department of Public Instruction

a. "State Department of Education is created under Sec. 15-111. Powers and duties are, in the main, elaborated under state board (supra) and the state superintendent (supra). Also see Sec. 15-112 et. seq.

B. Higher Education

1. General

2. Board/Agency

a. Structure: A "board of regents" consisting of eight members appointed by the governor plus ex-officio, the governors and "the state superintendent of public instruction," is established in Sec. 15-721.

b. Powers/duties: Sec. 15-724 and 15-725 enumerate the powers of the board. These include the setting of salaries, of appointments and of student tuition and fees. The board also establishes curricula and courses and makes other such provisions in the interest of the state.

3. State Board for Community Colleges

a. Structure: Sec. 15-656 requires that a "state board of directors for community colleges" be established, to consist of eleven members appointed by the governor for a seven year term, and three ex-officio members: one from the board of regents, the superintendent, and the director of vocational education.

b. Powers/duties: An executive director and other staff are to be appointed by and for the board (Sec. 15-637). The board may: determine location of a community college; transact business for the system (Sec. 15-659); "set standards for the establishment, development, administration, operation and accreditation of community colleges;" establish qualifications for staff; fix tuition and fees; and "establish curriculums and designate courses..." (Sec. 15-660).

III. Provisions for Legislative Oversight Affecting Education

A. Joint Legislative Tax Committee

Under Sec. 41-1321, the joint legislative tax committee shall consist of members of the house of representatives and the senate. The duty of the committee shall be to determine the amount appropriated for state aid for education and other state supported educational programs. (41-1322 Supp.) It shall also fix the rate of taxation for educational purposes in order to establish a levy in accordance with provisions of Sec. 42-108.02.

B. Joint Legislative Budget Committee

The joint legislative budget committee shall consist of members of the House of representatives and the Senate. The committee shall made recommendations to the legislature relating to state budget revenues and expenditures of the state, future fiscal needs, the organization and functions of state agencies or divisions thereof and such other matters incident to the above functions as may be provided for by rules and regulations of the joint legislative budget committee (See 41-1271).

C. Auditor General

The joint legislative budget committee is to appoint an auditor general under Sec. 41-1279.03, the auditor general shall conduct program audits, performance audits, special audits and investigations of any state agency as requested by the appointing committee.

D. Legislative Council

The legislative council shall consist of members of the House of Representatives and the Senate. Under Sec. 41-1304 the legislative council shall, among other duties, provide bill drafting, research, and other services to the legislature deemed necessary or advisable by the council to improve the quality of legislation and to insure full participation by the legislative branch in determining and reviewing policy and administration of state affairs. Also it will make a thorough investigation and summary of the affairs and operations of the several state departments and institutions, including administration, travel, personnel, and purchases. It reports to the legislature, making recommendations or elimination, consolidation, etc. to effect efficiency in state affairs.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints members of the state board of education, by provision of the constitutions, Art. XI, Sec. 3 and Sec. 15-101.01 (See I-A-2, supra). The governor also appoints the regents under provisions of Art. XI, Sec. 5 of the constitution and Sec. 15-721 (See I-B-2, supra and II-B-2, supra).

B. Budget: Sec. 35-111 requires the governor to prepare "a complete plan of expenditures" and submit that plan to the legislature annually. Sec. 35-112, 35-115, and 35-116 mandate the specificity and procedures required of the governor in budget preparation.

ARKANSAS

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Art. 14, Sec. 1 "Intelligence and virtue being the safeguards of liberty and the bulwark of a free and good government, the State shall ever maintain a general, suitable and efficient system of free public schools and shall adopt all suitable means to secure to the people the advantages and opportunities of education." Persons over 21 and under six may be included in public expenditures for education (Amendment 53).

2. Governance: Art. 14, Sec. 4 provides that the general assembly must vest officers for the "supervision of public schools."

3. Powers/duties of the state: Art. 14, Sec. 2 requires that moneys belonging to the public school fund or to the State be used only to support the public schools or universities. Art. 14, Sec. 3 requires the general assembly to support schools through public taxation. Provisions are made regarding taxes that may be assessed on property and per capita (capitation tax).

B. Higher Education

1. General

2. Governance

3. Powers/duties of the state

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

a. Structure: Sec. 80-102 establishes a "state board of education" to be composed of nine members, one from each congressional district and the balance at large. Sec. 80-103 provides that the board be appointed by the governor with senate confirmation for a term of five years (Sec. 80-105).

b. Powers/duties: Sec. 80-113 gives to the board general supervision of the schools including construction and expenditures for school buildings, recommending of courses of study for public schools and teacher training institutions, issuing of teaching certificates, and qualifying public schools for accreditation. The board is to "prescribe rules and regulations for certifying qualified teachers...(and) for the acceptance of diplomas of normal schools, colleges and universities..." (Sec. 80-114). The state board is also the board for vocational education (Sec. 80-105) and may take action necessary to qualify for federal funds (Sec. 80-148; see also Sec. 80-1647). In Sec. 80-122, the board is to employ personnel for the state department of education. Under the "Education Assessment Act" (Sec. 80-151) the board is to administer an annual school assessment program to measure pupil performance in the basics, to provide data on the instructional programs and for planning purposes, to provide diagnositic information for teachers and to assess how well schools are doing to meet goals. (Sec. 80-152; see Sec. 153 et. seq. for further detail).

3. Chief State School Officer

a. Structure: Sec. 80-118 empowers the board to employ a "commissioner of education".

b. Powers/duties: Sec. 80-118 requires the commissioner to act "as agent of the board, and perform such other duties as are designated by the board or by statute".

4. Department of Public Instruction

There is no separate provision outlining the establishment, powers and duties, but a "State Department of Education" is alluded to (as the administering arm of the board and the commissioner) throughout Sec. 80-100 et. seq. See board and commissioner, supra.

B. Higher Education

1. General

2. Board/Agency

a. Structure: Sec. 80-4901 establishes a "Department of Higher Education and Sec. 80-4902 provides for "The State Board of Higher Education" appointed by the governor, with senate confirmation, for a period of ten years. No more than two members may be appointed from the same congressional district.

b. Powers/duties: Sec. 80-4904 In order to promote "a coordinated system of higher education" and in order to assure orderly and effective development, the board is to review programs and functions of all public universities and community colleges, to recommend new institutions and to determine the justification for any new "college, school, division, institute, department, new curricula or majors leading to a new degree program..." The board is also to establish fees and to "review, evaluate and coordinate budget requests...and present to the

General Assembly and to the Governor...a single budget report...." Continuing studies are to be conducted on all matters which affect higher education and continuous master planning carried out. The board may apply for and administer federal funds.

Sec. 80-4905 requires the board to oversee non-state supported institutions and Sec. 80-4906 authorizes the board to establish criteria, rules and procedures for higher education expansion--including community colleges. Sec. 80-4909 designates the board as the "State Community College Board" with powers in addition to those referred through-out Sec. 80-4904. In addition to the foregoing, the board is to employ a director to be confirmed by the governor (Sec. 80-4923).

III. Provisions for Legislative Oversight Affecting Education

A. Legislative Council

A "Legislative Council", consisting of 30 members of the general assembly is established by Sec. 4-617. Under its jurisdiction is the bureau of legislative research (Sec. 4-621) and a number of special joint and interim committees which report to the council (Sec. 4-1001). Among these are the joint auditing committee (see B, post) and the "Committee on Education" having jurisdiction over all education in the state, private and public. The committee may "initiate and conduct studies" (Sec. 4-1002) as it wishes and is to report to the council in an advisory capacity (see C, post).

B. Joint Auditing Committee

Sec. 4-701 creates a "Legislative Joint Auditing Committee" consisting of 26 members of the general assembly. The Committee shall (Sec. 4-619) "investigate all state departments, agencies, institutions, and all other (public) activities". Sec. 4-704 provides that, due to growth of state agencies, such auditing should be a continuous process by the committee, maintaining an independent role from that of the executive, designed to provide the legislative "with adequate information (for the exercise)... of its constitutional powers...."

C. Interim Committee on Education

Sec. 4-1001.1 enabled the "Joint Interim Committee on Education" to apply for federal moneys to study the development and administration of a state equalization plan for school financing. Together with the legislative council (Sec. 4-1001.2), the committee "shall annually study the courses offered, the students participating and benefiting... to evaluate the cost per student classroom hour for each course...." See also responsibilities under D, sunset law, post.

D. Performance Review Committee

Sec. 4-1013 creates a "Joint Performance Review Committee", consisting of three senate and six house members. This committee is to "make random and periodic performance review(s)...conduct investigations...refer problems (to iterim committees)...(and to) coordinate, monitor and supervise the administration and operation of the 'sunset law'...." The committee is also to conduct public hearings, review expenditures of all state entities and make reports to the governor and the general assembly.

Sunset provision: Under Sec. 5-1201, legislative intent is established to provide for the termination of state agencies, subject to renewal by favorable review. The joint interim committee on education is charged (Sec. 5-1203) with reviewing the state department of education, the state board, the library commission, the schools for the deaf and the blind and the boards of trustees of those institutions, the educational television commission and the board for vocational education. In this work, it is to receive aid from the division of legislative audit (Sec. 5-1207; see B, supra). For procedure generally, see Sec. 5-1207 et. seq.

E. Performance Review

Sec. 13-336 requires each agency (including elementary education, but excluding higher education) to file periodic reports on agency performance, relating work accomplished to work planned, accomplishments to "policy decisions and budget determinations", the cost of the work and administrative improvements. Such review follows the filing of an annual operations plan (Sec. 13.335) which must list goals, objectives, activities, etc., of the agency. The plan is first reviewed for approval by the director of the office of planning.

F. Rule Review

Rules and regulations promulgated by state agencies are to be routinely reviewed by the legislative council (Sec. 6-610; see council, A, supra). Before any rule or regulation may be "revised, promulgated, amended or changed" it is to be reviewed by the bureau of legislative research, acting on behalf of the council, to ascertain compliance with legislative intent. If such compliance is not found, the council notifies the agency and reports and recommends to the general assembly.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints the state board of education (Sec. 80-103; see II-A-2a supra) and the state board for higher education (Sec. 80-4902; see II-B-2a supra).

B. Budget: The governor is to submit a "proposed comprehensive program and financial plan" to the legislative council and the general assembly (Sec. 13-333). The plan must show "the coordinated programs, goals and objectives (and)...program and budget recommendations" of the governor. See Sec. 13-332 for required detail.

CALIFORNIA

CONSTITUTIONAL PROVISONS

I. Establishment Provisions

Artice 9, Sec. 1 of the constitution provides for "A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement."

A. Lower Education

1. General: Art. 9, Sec. 5 mandates that "The Legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year, after the first year in which a school has been established."

2. Governance: A "Superintendent of Public Instruction" is to be elected by the people (Art. 9, Sec. 2), a Deputy and at least three associate superintendents are to be appointed by the state board of education (Art. 9, Sec. 2.1) and the legislature is to provide, by appointment or election, a "State Board of Education" (Art. 9, Sec. 7).

3. Powers/duties of the State: The state is obligated to fund the "public school system" up to a stipulated minimum (Art. 9, Sec. 6). The state board is to adopt and print textbooks and the legislature is to provide for local boards of education in each county (Art 9, Sec. 7). The support of public schools and public institutions of higher education is mandated by Art. 16, Sec. 8.

B. Higher Education

1. General: See Art. 9, Sec. 1, supra.

2. Governance: Art. 9, Sec. 9, provides that the University of California constitutes a public trust which is to be administered by "the Regents of the University of California." The regents are comprised of eight ex-officio members (including the governor, the lieutenant governor and the speaker of the house) and sixteen members appointed by the governor.

3. Powers/duties of the State: The board of regents is a corporation charged with all the legal and financial obligations of a corporation. It has the power to acquire and dispose of property, sue and be sued and to hold inviolate all funds intended for the university. Should a portion of the principal of such funds be for any reason diminished, it is the duty of the legislature to appropriate additional moneys to keep the principal undiminished (Art. 9, Sec.9). See also Art. 16, Sec. 8, under I-A-3, supra.

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General: Educ., Sec. 33080: Each child is a unique person, with unique needs, and the purpose of the educational system of this state is to enable each child to develop all of his or her own potential.

2. Board:

   a. Structure: Educ., Sec. 33000, establishes a "State Board of Education" consisting of ten members, appointed by the governor for a term (Educ., Sec. 33001) of four years. These are statutorily defined "educational policy advisory commissions" established to advise the board on policy matters (Educ., Sec. 33501). One such commission, for example, is the Educational Innovation and Planning Commission, consisting of legislators, legislatively appointed public representative, a gubernatorial (public) appointment and fifteen members appointed by the board.

   b. Powers/duties: "The board shall determine all questions of policy...." (Educ., Sec. 33030). They are empowered to adopt rules and regulations governing elementary, secondary, technical/vocational and "of such other schools, except the University of California and the California State University and Colleges..." (Educ., Sec. 33031). It must study educational needs of the state and make plans for improvement (Sec. 33032), report to the governor, with recommendations, biennially (Sec. 33037), and issue guidelines for teacher evaluation (Sec. 33039)--those among other duties.

3. Chief State School Officer

   a. Structure: The superintendent is elected by the people, See Art. 9, Sec. 2 under I-A-2, supra. Educ., Sec. 33501 defines various "educational advisory commissions" who, by statutory mandate, are to advise the superintendent "on the administration of programs with which he is charged...."

   b. Powers/duties: Educ., Sec. 33112 makes general provisions, Sec. 33113 provides his duties to prescribe relations with the federal government, and Sec. 33303 provides that the Superintendent "is ex-officio Director of Education." (See Director, post).

4. Department of Public Instruction

   Educ., Sec. 33300 creates "a Department of Education." The department is to be administered by the state Board and a director of education (ante) who is the executive officer of the department (Sec. 33302). General duties such as providing consulting services and workshops, revising budget manwork and interagency cooperation are provided in Sec. 33316. It is to work with the Educational Management and Evaluation Commission (Sec. 33317), report test results on state testing programs (Sec. 33318) and submit a plan of evaluation activities to the state board (Sec. 33401). The department is directed by the legislature (Sec. 33403) to provide a detailed descriptive report on objectives, and components, numbers involved and costs of programs for twelve different programs (e.g. experimental kindergarten, private schools for the handicapped) and further prescribes the content and procedures for the evaluation. The department is to report the program evaluation to the legislature each year and further include test instruments used, statistical techniques employed (Sec. 33405).

B. Higher Education

1. General

2. Board/Agency

Public higher education includes all public community colleges and all institutions associated with the California State University and Colleges and the University of California (Educ., Sec. 66010; also see Educ., Sec. 89005). The community colleges are considered under 2.1, post.

CALIFORNIA POSTSECONDARY EDUCATION COMMISSION

a. Structure:

Education, Sec. 66901 creates a "California Postsecondary Education Commission" consisting of 23 members, two each from the board of regents, University of California, the California State University and College System, the board of governance of the California Community Colleges and the independent colleges and universities. Three members are ex-officio and twelve are appointed from the general public, four each by the governor, the senate and the house. (Note: Each of the public higher education systems are somewhat self-governing; the University of California system and the California State system are the subject of legislation Educ. Sec. 66500 and 66500 and 66600 respectively. As neither system applies to all education at that level, they are not considered here. The community college system, applicable to all community colleges, is described, post).

b. Powers/duties:

The commission has the power to require confirmation from all postsecondary governing boards regarding plans and programs, costs, selection... of students, enrollments... "and other matters needed for" policy development, articulation and coordination..." (Sec. 66902). More specifically (Sec. 66903), the commission shall require statewide long-range plans from the governing boards, and it shall prepare a five year plan for all of postsecondary education, resolving problems among the systems (submitting those unresolved issues to the legislature). Facilities, programs, budget priorities, student charges, state funding level and other considerations must be included in the plan. Other duties, 21 in total, are detailed in this section including reporting to the legislature and the governor. See Sec. 66903.1 through 66904 for further elaboration).

COMMUNITY COLLEGES

a. Structure: Under Educ., Sec. 71000 there is created a "Board of Governors of the California Community Colleges...." The board consists of fourteen members (and one student member) appointed by the governor with the advice and consent of the senate for a four year term (Sec. 71001). The board "shall appoint a chief executive officer, (Sec. 71090) to be known as the Chancellor of the California Community Colleges...."

b. Power/duties: As part of the public school system of California the board is to prescribe minimum standards for the community colleges and exercise general supervision (Educ. Sec. 66700). The community colleges may offer the associates degree in collegiate, liberal arts and vocational-technical programs and offer community services (Sec. 66701). Further, Sec. 71023 provides that the board provide leadership and direction to the community colleges but to provide for, as much as possible, local autonomy. Administrative standards (Sec. 71025) and academic standards (Sec. 71027) are established by the board and an evaluation (investigation) is to be held annually by the board to ascertain whether or not the standards were met (Sec. 71026). Other duties provided by law are listed Sec. 71028 et. seq.

III. Provisions for Legislative Oversight Affecting Education

A. Donahoe Higher Education Act

Educ., Sec. 66012 provides for "a legislative study of California post-secondary education at 10-year intervals" to review planning process, guidelines regarding goals, societal needs and general mission.

B. Joint Legislative Budget Committee

The "Joint Legislative Budget Committee" is created by Leg., Sec. 9140. It may function during the sessions or as an interim committee to ascertain fails and make recommendations regarding revenues, expenditures, and organization and functions of the state or any entity of the state. A legislative analyst (auditor) is provided in Leg., Sec. 9143.

C. Joint Legislative Audit Committee

Leg., Sec. 10500-10501 creates a "Joint Legislative Audit Committee" to conduct an audit independent of those audits conducted by the executive branch. It is a continuing committee established to study, make inquiry, investigate, or hold hearings regarding the charge of the committee (Sec. 10503). An auditor general and a legislative audit bureau is established to carry out these functions (Sec. 10500 and Sec. 10520). Performance audits are including in its charge.

D. Summary Program Evaluation

Note program oversight as provided in Educ., Sec. 33400 et. seq.; described II-A-4, supra.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints sixteen regents of the University of California (constitution, Act. 9, Sec. 9; I-B-2, supra) ten members of the state board (Educ., Sec. 33000; II-A-2, supra), sixteen members of the higher education board of governors (Educ., Sec. 66602; II-B-2, supra) and fourteen regular members of the board of community colleges (Educ., Sec. 71000; II-B-2.1, supra).

B. Budget: Article 4, Sec. 12 of the constitution requires the governor to prepare and submit a detailed, annual budget to the legislature. Gov., Sec. 12016 further provides detail of the necessary and proper transmittal of the budget. (Sec. 12016 will be automatically repealed in 1983 unless otherwise re-enacted.)

COLORADO

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Art. IX, Sec. 2 "The General Assembly shall as soon as practicable, provide for the establishment and maintenance of a thorough and uniform system of free public schools throughout the state...."

2. Governance: Art. IX, Sec. 1 "The general supervisions of the public schools of the state shall be vested in a board of education...." The members... shall be elected by the qualified electors of the state." A commissioner of education is to be appointed by the board.

3. Powers/duties: Art. IX, Sec. 3 prescribes a public school fund which "shall forever remain inviolate and intact" as a means of financing the schools (See also Art. IX, Sec. 9 and 10). Art. IX, Sec. 11 provides for compulsory education (if the general assembly so directs. Powers and duties are to be presented by law (Art. IX, Sec. 1) but the state is forbidden to "prescribe textbooks to be used in the public schools."

B. Higher Education

1. General

2. Governance: Art. IX, Sec. 12 "There shall be nine regents of the University of Colorado who shall be elected in the manner prescribed by law for terms of six years each."

3. Powers/duties: Sec. 13 "The regents of the University shall elect a president of the university who shall hold his office until removed by the board of regents. He shall be the principal executive officer of the university, a member of the faculty thereof, and shall carry out the policies and programs established by the board of regents.

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

a. Structure: Under Sec. 22-2-105, the state board of education shall consist of an elected member from each congressional district of the state. Members shall be elected for six year terms.

b. Powers/duties: Under Sec. 22-2-106, it is the duty of the state board to exercise supervision over the public schools, to appoint a commissioner of education, to appraise the public schools, approve the annual budget, order the distribution of federal and state moneys, review the annual report prepared by the commissioner, and to perform any other duty required. In Sec. 22-2-107 the state board has the power to promulgate and adopt policies, to appoint advisory committees, to approve plans necessary to the receipt of federal moneys, and to appraise for the purpose of accreditation any non public schools (at their request). Sec. 22-2-108 empowers the board to accept and expend federal moneys, with the provision that a formal agreement with the federal government must be approved by the attorney general. Duties of the board regarding the power to study and investigate teacher preparation programs and the certification of teachers are promulgated in Sec. 22-2-109. The state board is further mandated to report to the general assembly relative to the progress of local school district comprehensive planning projects (Sec. 22-6-113; see also Sec. 22-6-101 et. seq.). The board has more elaborate duties in the implementation of a state accountability law, Sec. 22-7-103.

3. Chief State School Officer

a. Structure: Sec. 22-2-110 The Commissioner of Education shall be the Chief state school officer and executive officer of the department. The commissioner is to be appointed by the state board, serve at the pleasure of the board, and receive such compensation as may be determined by the board.

b. Powers/duties: Under Sec. 22-2-112, The commissioner shall have the duty to advise the state board concerning the current operation of the public schools. The commissioner shall also supply information, prepare and submit a budget report, maintain a system of personnel, serve as state librarian, visit public schools, establish adequate financial records, submit consolidated report of the receipts and expenditures. Sec. 22-2-13 futher elaborates the powers of the commission.

4. Department of Public Instruction

Under Sec. 22-2-103, the department of education shall include the state board of education, the commissioner of education, assistant commissioners of education, and other officers and employees of the department. The existence of the department as an agency of the board and the commissioner is assumed throughout the code (See Sec. 2-2-2-106, et. seq. and Sec. 22-2-110 et. seq., supra).

B. Higher Education

1. General

2. Board/Agency

a. Structure: Sec. 23-1-102 "There is hereby established a Colorado Commission on higher education whose nine members shall be appointed by the governor with consent of the senate." Under Sec. 23-1-103 An advisory committee to the Colorado Commission on higher education is established for the purpose of suggesting solutions for the problems of higher education. This is a nine-person committee, four of whose members must be from the general assembly.

b. Powers/duties: Duties of the commission are enumerated in Sec. 23-1-105 et. seq. Sec. 23-1-105 specifies the form of budget documents to be received from individual institutions (by mission). The commission reviews the budget and make recommendations as to funding priority. Commission duties regarding capital outlay and long-range planning are specified in Sec. 23-1-106 and duties relative to roles and functions--including degree and non-degree programs, elimination or consolidation of programs and extension--are characterized in Sec. 23-1-107. Those duties having to do with research, statistics and long-range planning are outlined in Sec. 23-1-108. Other duties are established in Sec. 23-1-109 through 23-1-112.

3. Other Boards

Sec. 23-60-104 establishes a "state board for community colleges and occupational education". This nine-member board is appointed by the governor for a term of six years. An advisory board, composed of various constituencies, is also established. The board is subsumed under and makes its recommendations to the commission on higher education (Sec. 23-60-202). Its duties include recommending capital and operating budgets, curricula, programs, degrees, and tuition and fees.

III. Provisions for Legislature Oversight Affecting Education

A. Joint Budget Committee

A "Joint Budget Committee" made up of general assembly members is established (Sec. 2-3-201). It is to study the "management, operations, programs, and fiscal needs" of agencies and institutions, hold hearings, review proposed taxes, and to appoint a staff to assist in to work (Sec. 2-3-203 and 2-3-204). Under Sec. 2-3-207, the joint budget committee shall implement an on-going review procedure of existing programs based on zero base budgeting, as part of its existing review of executive, judicial and legislative budget requests, so as to provide a means by which the continuation of existing programs may be justified, by which state agencies and institutions may establish priorities for their activities in implementing such programs, and by which funding of existing programs at a current, increased, or lower level is justified by the benefits to be realized or by the need for increased or reduced services by a particular level of funding.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints the nine member commission on higher education (Sec. 23-1-102; See. II-B-2a, supra.), and the state board for community colleges and occupational education (Sec. 23-60-104; See. II-B-3, supra.).

B. Budget: Under Sec. 24-30-303 the governor must annually evaluate the plan, policies and programs of departments of state government with the intent of formulating an executive budget for presentation to the general assembly. All recommendations of expenditures and revenues, though formulated by an executive budget office (Sec. 24-30-304) are the responsibility of the governor (Sec. 24-30-306).

CONNECTICUT

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

  A. Lower Education

    1. General: Art. 8, Sec. 1. "There shall always be free public elementary and secondary schools in the state. The general assembly shall implement this principle by appropriate legislation."

    2. Governance

    3. Powers/duties of the state: Art. 8, Sec. 4. The "school fund shall remain a perpetual fund, the interest of which shall be inviolably appropriated to the support and encouragement of the public schools throughout the state, and for the equal benefit of all the people thereof...no law shall ever be made, authorizing such fund to be diverted to any other use than the encouragement and support of public schools, among the several school societies, as justice and equity shall require."

  B. Higher Education

    1. General: Art. 8, Section 2. "The state shall maintain a system of higher education, including the University of Connecticut, which shall be dedicated to excellence in higher education."

    2. Governance: Art. 8, Sec. 2. "The general assembly shall determine the size, number, terms and method of appointment of the governing boards of the University of Connecticut and such constituent units or coordinating bodies in the system as from time to time may be established."

    3. Powers/duties of the state:

STATUTORY PROVISIONS

II. Establishment Provisions

  A. Lower Education

    1. General: Sec. 10-4a stipulates that the interest of the state include equal opportunity, a "reasonable" finance level and that state mandates be implemented.

2. Board

   a. Structure: Sec. 10-1 provides that "the state board of education shall consist of nine members." The governor appoints, with the advice and consent of the general assembly, the members of the board for a term of four years. The chief executive officer of the board of higher education shall serve as an ex-officio member without a vote.

   b. Powers/duties: Sec. 10-4 provides that the board shall have "general supervision and control of the educational interests of the state," including pre-school, elementary, secondary, vocational, adult and special education. The board provides leadership (research, planning, evaluation), prepares courses of study, approves textbooks, conducts workshops, is to keep informed of educational needs and "develop or caused to be developed evaluation and assessment programs designed to measure objectively the adequacy and efficacy...of programs...." The board is to report to the governor and the general assembly annually, prepare a comprehensive five year plan and a comprehensive plan for monitoring state grants received by local boards of education. See further Sec. 10-4a _et_. _seq_. See also commissioner, II-B-3a-b, _post_.

3. Chief State School Officer

   a. Structure: The "commissioner of education" is appointed by the board for a four year term (Sec. 10-3a).

   b. Powers/duties: The commissioner is the administrative officer of the board; he or she coordinates and supervises the activities of the department of education (Sec. 10-3a). See also Sec. 10-4 _et_. _seq_., II-A-2b, _supra_.

4. Department of Public Instruction

   a. Structure: The "Department of Public Education" is established in Sec. 10-3a. It shall consist of "such bureaus, divisions and other units as may be necessary...."

   b. Powers/duties: The powers and duties of the department are discussed concurrently with those of the board (Sec. 10-4 _et_. _seq_.; Sec. II-B-2b, _supra_).

B. Higher Education

1. General

2. Board/Agency

   a. Structure: Sec. 10-322 creates a "state system of public higher education." Under Sec. 323a, a board of higher education is established, consisting of twenty members, six appointed by the governor and six by the general assembly to serve six year terms. Others are appointed from institutional boards (state technical colleges, higher education, community colleges) and from various student bodies. The commissioner of education serves ex-officio with voting rights.

   b. Powers/duties: Sec. 10-323c mandates the board to appoint a "commissioner of higher education" and permits the employment of other staff. Sec. 10-323e requires the board to establish statewide policy, including a consolidated budget which shall be inclusive of capital needs, to be presented to the governor and the general assembly. The board also reviews plans from each of the institutions, develops criteria to ensure program quality and review institutional policy to ensure implementation, prepares legislative proposals, and prepares a comprehensive plan for all institutions, with consideration to independent colleges. See this section for further enumeration; see also Sec. 10-323f for further detail on budget responsibilities.

III. Provisions for Legislative Oversight Affecting Education

A. Legislative Review

Sec. 2-53e establishes a "Legislative Program Review and Investigations Committee" as a standing committee of the general assembly, six members appointed from each the house and the senate. The committee conducts program "reviews and investigations to assist the general assembly in the proper discharge of its duties; confers with representatives of the state departments and agencies to recommend such legislation as may be necessary to modify current operations and agency practices; and considers and acts on requests for program reviews.

B. Legislative Management

A "Joint Committee on Legislative Management" is created under Sec. 2-71a. It is constituted by eight members each of the house and the senate. Under its jurisdiction is an "office of legislative research" and an "office of fiscal analysis." Among the duties of the legislative research office are those of analyzing the implications of proposed programs, research and writing of interim reports and informing the general assembly on action taken by the general assembly. The office of fiscal analysis reviews all budgets, establishes capital program priorities, assists in program budget review, prepares critiques on long-range executive programs, and prepares fiscal notes on favorably reported bills requiring expenditures (Sec. 2-71c).

C. Legislative Regulatory Review

A standing committee is established by Sec. 4-170 "to review all regulations of the several state departments and agencies..." It consists of eight members of the house and six members of the senate. Regulations may not normally be adopted, amended or repealed until approved by this committee or until waiting 65 days (qualified by certain circumstances).

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints members of the state board of education (Sec. 10-1; See II-A-2a, supra) and six members of the board of higher education (Sec. 10-322; See II-B-2a, supra).

B. Budget: Sec. 4-71 provides that the governor "shall transmit to the general assembly a budget document setting forth his financial program...." Sec. 4-72 establishes the detail for Part I of the budget, a program for meeting expenditures, including the current status of "all major state operating funds" including bonded indebtedness, revolving funds and the amounts appropriated and spent for each fund. Sec. 4-73, Part II of the budget, "shall present in detail...the governor's recommendation for appropriations...."

DELAWARE

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Under Art. X Sec. 1, "The General Assembly shall provide for the establishment and maintenance of a general and efficient system of free public schools, and may require by law that every child, not physically or mentally disabled, shall attend the public school, unless educated by other means."

2. Governance

3. Powers/duties

B. Higher Education

1. General

2. Governance

3. Powers/duties

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General: Under 14, Sec. 201, "The system of free public schools throughout this state shall be general and efficient."

2. Board

a. Structure: Under 14, Sec. 101, "The general administration and supervision of free public schools and of the educational interests of the State shall be vested in a State Baord of Education....The Board shall be composed of 7 members who shall be citizens of the State and shall be appointed by the Governor and confirmed by the Senate. The Governor shall be citizens of the State and shall be appointed by the Governor and confirmed by the Senate. The Governor shall name the President of the Board...Each of the remaining members of the Board shall be appointed to serve for 6 years and until his successor qualifies. At least 4 members shall have had prior experience on a local Board of Education; no more than 4 members of the Board shall belong to the same political party; no person shall be eligible for appointment who has not been for at least 5 years immediately preceding his appointment a resident of the state...?

b. Powers/duties: See 14, Sec. 101, supra. Under Sec. 121, "The Board shall determine the educational policies of the State and the seeking in every way to direct and develop public sentiment in support of public education; (2) shall consult with the boards of education of reorganized school districts, and other officers, principals, teachers and interested citizens in matters relating to education and to the conduct of schools; (3) the appointment of persons to replace professional and clerical assistants on leaves of absence; (4) shall require from boards of reorganized school districts of such reports covering expenditures, business methods, accounts, registration, attendance and any other matter it finds necessary...; (5) it shall conduct investigations relation to the educational needs of the State and the means of improving the educational conditions...." (See also 15, Sec. 122 on specific rule-making authority).

3. Chief State School Officer

a. Structure: Under Sec. 107, "The Board shall appoint as its Executive Secretary, a State Superintendent of Public Instruction. He shall be appointed for a term of 1 year and the Board shall fix his salary and pay the same from the appropriation for the purpose." The superintendent "may be removed upon making known to him in writing the charges against him, and upon giving him an opportunity of being heard, in person or by counsel, in his own defense, upon not less than 10 days notice...."

b. Powers/duties: Under Sec. 108, "The Board shall prescribe the duties of the Superintendent of Public Instruction and shall invest him with such powers as it deems proper, and such as he needs in the performance of his duties as Executive Secretary of the Board and as Superintendent of Public Instruction of the State.

4. Department of Public Instruction

The establishment and powers and duties of a "State Department of Public Instruction "is discussed concurrently with board and superintendent; See II-A-2 and II-A-3, supra.

B. Higher Education

1. General: Under Sec. 8101. "It is the policy of this state to encourage the attainment and maintenance of sufficient facilities to serve the higher education needs of the people."

2. Board/Agency

a. Structure: Under Sec. 8102, "There is hereby created a Higher Educational Aid Advisory Commission." Under Sec. 8103, "The members of the Commission shall be appointed by the Governor and shall serve at his pleasure.... Five members shall represent the general public...." Four members shall be appointed from each of four colleges and universities in Delaware, (Sec. 8105). The State Superintendent of Public Instruction shall be an ex-officio member of the commission, (Sec. 8106).

b. Powers/duties: Sec. 8111, "The commission may: collect, correlate and analyze data relating to the extent and character of facilities within this state used for higher educational purposes...; (2) hold such investigations and hearings as may be necessary or appropriate in the conduct of its work; (3) issue, revise and amend rules and regulations for the implementation of this chapter and for the administration of any of its responsibilities and functions pursuant thereto; (4) assemble or otherwise, obtain and keep current, statistics detailing the number and character of both full and part time students enrolled in each of the several types of higher educational institutions within this State and project trends in such enrollments; (5) apply for, receive, administer, expend and account for such federal moneys or other assistance as may be available from time to time, within the areas of its work...."

C. Under 9102, "There shall be a Board of Trustees of the Delaware Technical and Community College which shall be a state agency." Under Sec. 9103 the board shall consist of seven trustees. They are to be appointed by the Governor by and with the consent of a majority of the members elected to the Senate. Six trustees shall be appointed for terms of three years each. Under Sec. 9105 the Board may establish such institutions of learning throughout the state as may be necessary. The Board may contract with the University of Delaware, or with any other institution to offer a two year college parallel program, and the Board shall provide the necessary funds to meet the entire cost of the operation. The board is to have custody of and be responsible for the property of the institutions and shall be responsible for the management and control of said institutions. The board shall determine the educational programs of the institutions.

III. Provisions for Legislative Oversight Affecting Education

A. Legislative Council

"There is created a Legislative Council which shall be composed of 10 members of the General Assembly.... The council shall summarize and digest information on matters relating to the general welfare of the State; recommend such codification and general revision of the Constitution and the laws of the state as may from time to time be necessary.... The Council shall appoint committees and sub-committees which shall include only members of the General Assembly and at least 1 council member and which shall be subject to the authority of the Council; request information from any officer or agency of the State of of its political subdivisions bearing on subjects under consideration by the Council or by any of its committees or sub-committees...." (Sec. 1101).

B. Controller General

"The Council shall appoint a Controller General who shall work with and assist the Joint Finance Committee of the General Assembly. He shall request and obtain from any state agency all reasonably information and data as directed by the Joint Finance Committee to assist the General Assembly in the effective discharge of its state financial responsibilities..., participate in any or all hearings held by the Joint Finance Committee of the General Assembly, the Budget Director or other state agencies in connection with contemplated general fund budget appropriations, capital improvement programs and supplementary appropriations...." (Sec. 110).

IV. Gubernatorial Provisions Affection Education

A. Appointments/Approvals: The governor appoints the state board of education and selects its president (14, Sec. 101; II-A-2, *supra*). The governor also appoints the higher education commission (14, Sec. 8103, II-B-2, *supra*) as well as the trustees of the community college board (14, Sec. 9103; II-B-2, *supra*).

B. Budget: 29, Sec. 6335. The Governor receives the budget report from the Budget Director. It will contain a statement of the revenues and expenditures for each of the 2 fiscal years of the preceding biennial period, classified and itemized in accordance with the official budget classification, a statement showing amount of state funds expended each fiscal year in the preceding biennal period under the general classifications of public highways, free public schools, charitable and benevolent institutions..., a statement of the condition of the several funds of the state, a statement of the state dept...." Under 29, Sec. 6335, "The governor upon receipt of the report from the Budget Director may make such changes in the report as he may deem necessary or desirable in accordance with his own best judgement and shall submit the budget report to each House of the General Assembly within five days after the organization of both Houses...." Under 29, Sec. 6337, "The General Assembly may increase, decrease or eliminate in the Budget Appropriation Bill in any way that is not contary to the Constitution of the State...."

FLORIDA

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Constitution, Art. 9, Sec. 1. "Adequate provision shall be made by law for a uniform system of free public schools..."

2. Governance: Constitution, Art. 9, Sec. 2. The governor and the members of the cabinet constitute a state board of education, which is a corporate body and has supervision of the system of public education as provided by law.

3. Powers/duties of the state: Constitution, Art. 9, Sec. 2. As cited above, the state board of education has supervision of the system of public education as provided by law.

B. Higher Education

1. General: Constitution, Art. 9, Sec. 1. "Adequate provisions shall be made by law...for the establishment, maintenance and operation of institutions of higher learning and other public education programs that the needs of the people may require."

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General: Sec. 228.04. "As required by 5.1 Art. 1 of Constitution, this state system of public education shall include the uniform system of free public schools as established and which shall be liberally maintained" (sic). Also Chap. 229, Sec. 229.011 stipulates that public education is "basically a function and responsibility of the state" and the "responsibility for establishing such minimum standards and regulation as shall tend to assure efficient operation of all schools and adequate educational opportunities for all children is retained by the state."

2. Board

a. Structure: Sec. 229.012. "The State Board of Education shall consist of the Governor, the Attorney General, the Comptroller, the Treasurer, the Commissioner of Agriculture, and the Commissioner of Education" (elected members of the governor's cabinet). The Governor is the Chairman of the board, and the Commissioner of Education is its Secretary and executive officer. See also Constitution, Art. IX, Sec. 2 and statutes, Sec. 20.15.

b. Powers/duties: The state board rules and regulations and minimum standards related to carrying out provisions of school code have the "full force and effect of law" (Sec. 229.041). "The State Board of Education is the chief policy-making and coordinating body of public education...." It may delegate its general powers to the Commissioner of Education or to the directors of the divisions of the department of education (Sec. 229.053). Among the duties of the State Board of Education are the following: to exercise general supervision over the divisions of the Department of Education and to adopt and transmit to the Governor expenditure estimates for the state board, the commission and for all boards, agencies, institutions and services under the general supervision of the state board (Sec. 229.053).

3. Chief State School Officer

   a. Structure: Sec. 229.512. "The Commissioner of Education is the chief educational officer of the state...." The Commissioner is the secretary and executive officer of the State Board of Education (Sec. 229.012).

   b. Powers/duties: Sec. 229.512. Among the commissioner's duties are the following: to advise and counsel the state board on all educational matters; to prepare and propose for adoption by the board a long range plan for development of a state system of public education and to propose revisions as needed; to submit expenditure recommendations for all institutions and agencies under supervision of state board; to prepare for state board approval forms and procedures to be used by all department of education divisions to "assure uniformity, accuracy and efficiency in the keeping of records, the execution of contracts the preparation of budgets and the submission of budgets;" and "...to prepare and publish annually reports giving statistics and other useful information pertaining to the state system of public education..." (see also Sec. 229.575 re: Commissioner's annual report to Legislature and to the citizens of Florida).

4. Department of Public Instruction

   a. Structure: The Department of Education is headed by the state board of education which is composed of the Governor and cabinet (Sec. 20.15; see also Constitution, Art. 9, Sec. 2 and Sec. 229.012). Within the Department of Education are the following divisions: Division of Public Schools, Division of Vocational Education, Division of Community Colleges, Division of Universities, Division of Blind Services. The Commissioner of Education is authorized to establish a Division of Administration. The directors of all divisions, except the division of universities, shall be appointed by the Commissioner, subject to state board approval (Sec. 20.15).

b. Powers/duties: Sec. 229.75. The department of education assists the state board in providing professional leadership and guidance, and in carrying out the policies, procedures and duties authorized by law, by the board or found necessary by it to attain the purposes and objectives of the School Code. The department may remove for cause (as specified in statute, following notice and hearing) any person appointed by the state board or any subordinate school officer (Sec. 229.771).

B. Higher Education

1. General: Sec. 228.041. This section specifically includes "institutions of higher education" in the definition of "state system of public education." Also, Constitution, Art. 9, Sec. 1 and Statutes Sec. 228.04, cited above for lower education, apply to higher education.

2. Board/Agency

a. Structure: The Board of Regents is the director of the division of universities of the Department of Education (Sec. 20.15). The board consists of nine state citizens residents of state for 10 or more years and representative of geographical areas of the state, who serve for nine year rotating terms, and one full-time student in the State University System who serves a one-year term. All 10 members are appointed by governor, approved by three cabinet members and confirmed by the senate (Sec. 240.011).

b. Powers/duties: The Board of Regents "is granted the necessary powers to govern, regulate, coordinate, and oversee the institutions and agencies in State University System (SUS) in order to attain the most effective accomplishment of the lawful aims of education." As stated in Sec. 240.001, legislative intent is for the board to be primarily a policy-making board which will provide sufficient authority to the heads of institutions "so that they are fully responsible for the management of those institutions..." (Sec. 240.001). The Board of Regents is a corporate body and as such has corporated powers. In addition, the Board of Regents is authorized and empowered by law to:

1) appoint a chancellor as the chief administrative officer of the SUS;

2) appoint and remove heads of each institution or agency of the SUS;

3) review, amend and approve all SUS budgets and present to the Governor all appropriation requests;

4) approve, alter, change programs of instruction at each institution;

5) prescribe minimum student admission standards at all institutions;

6) conduct continuous studies of each institution to determine if policies and regulations are being followed and "to determine how effectively and efficiently the staff and facilities are being used" (Sec. 240.042).

3. Relationship of State Board of Education to Higher Education

Sec. 240.031. With respect to the SUS, the State Board of Education approves all rules and regulations adopted by the Board of Regents, holds title to all real property in the SUS, and exercises "general supervision and control over the Board of Regents." (The Board of Regents has the sole power to formulate and adopt rules and regulations governing the state university system and power to approve or disapprove the adoption of rules and regulations formulated by the Board of Regents. Op. Att. Gen., 071-288, Sept. 21, 1971.)

III. Provisions for Legislative Oversight Affecting Education

A. Legislative Reference Bureau

The services performed for the legislature by the "Legislature Reference Bureau" are: providing comprehensive research and reference service on legislative problems; summarizing information related to federal, state and local legislation and preparing reports indicating the social and economic impacts of proposed or extent legislation (Sec. 11.19).

B. Permanent Study Committees of Legislature

Council: Sec. 11.281. The education study committee, like all permanent study committees, is composed of 10 members: three senators who are not members of the legislative council, three representatives who are not legislative council members, two senators and two representatives who are legislative council members, appointed by the legislative council chairman. In order for a study committee to gather and assemble information for presentation to the council or legislature, such committees are authorized to maintain a continuous review of work of state agencies concerned with its subject matter; request reports, in form designated by committee, concerning operations of a state agency; review the constitution and statutes, court decisions, and attorney general's opinions and administrative rules in its subject area to determine whether they are consistent with legislative intent; and report its findings, recommendations and proposed legislation to the legislative council, speaker-designate and president-designate prior to each regular session of legislature.

"In order to carry out its duties, each committee is empowered with the right and authority to inspect and investigate the books, records, papers, documents, data operation and physical plant of any public agency in this

C. Legislative Auditing Committee

Sec. 11.40 et. seq. The "Legislative Auditing Committee" is a standing joint committee of the legislature composed of 10 members: five senators and five representatives appointed by the speaker. Terms are for two years. The legislative auditing committee "may at any time take under investigation any matter within the scope of an audit (previously defined as performance or post audit), and in connection with such investigation may exercise the powers of subpoena by law invested in a standing committee of the legislature" (Sec. 11.45). By majority vote of committee members, the legislative auditing committee appoints an auditor general (Sec. 11.42). The auditor general has the power and duty "annually to make post audits and performance audits of the accounts and records of all state agencies, to make post audits of the accounts and records of all district school boards and district boards of community college trustees, and has the power to make post audits of the accounts and records of all other...institutions" (Sec. 11.45).

D. Administrative Procedures Committee

Sec. 11.60. The Administrative Procedures Committee is a joint standing committee of the legislature, composed of six members, three representatives and three senators. This standing committee has the following duties/powers: maintains a continuous review of the statutory authority on which administrative rule is based, and whenever such authority is eliminated or significantly changed by repeal, amendment, holding by a court of last resort or other factor, advises the agency concerned of the fact; has standing to seek review in state courts of the validity or invalidity of any administrative rule on which the committee has voted an objection but which has not been withdrawn, modified, repealed or amended to meet the objection; and reviews agency action pursuant to the operation of the Administrative Procedures Act (Chap. 120, Sec. 120.545). As stipulated by Sec. 120,545, the committee examines each proposed rule and may examine any exisiting rule, for the purpose of determining whether the rule is within the statutory authority upon which it is based, whether the rule is in proper form, and whether notice given prior to adoption was sufficient to give adequate notice to the purpose and effect of the rule (as specified in, Sec. 120.54).

E. Public Meetings and Records

Known as the "Government in the Sunshine Law," this statute was inacted in 1967. It provides that: "All meetings of any board or commission of any state agency or authority of any county, municipal corporation or political subdivision...at which official acts are to be taken are declared to be public meetings open to the public at all times, and no...formal action shall be considered binding except as taken or made at such meeting." The minutes of such meetings "shall be promptly recorded and such records shall be open to public inspection" (Sec. 286.011).

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals

Members of the Board of Regents are appointed by the Governor, with approval of 3 cabinet members and senate confirmation (Sec. 20.15 and Sec. 240.001). Members of boards of trustees of community colleges and appointed by the Governor, with approval of 3 cabinet members and senate confirmation (Sec. 20.15). The State Board of Education, of which the Governor serves as Chairman (Sec. 229.012), appoints the directors of the Division of Public Schools, Vocational Education, Community Colleges and Blind Services, as well as all members of all councils and committees of the Department of Education, except for Board of Regents and community college trustees (Sec. 20.15).

B. Budget

Sec. 216.162 requires that the governor submit a budget to the legislature at least 45 days prior to the legislative session in which the budget is to be approved. The budget must contain one section on operations (Sec. 216.031) and one on capital outlay (Sec. 216.043) and in accord with the procedures outlined by the comptroller and the appropriations committees (Sec. 216.141). A budget is to be recommended for each year of the biennium and must contain a financial balance sheet for the two years prior, the present and future of state financial conditions, recommendations for additional revenue sources, estimated revenues and "explanations and justification, expressed in terms of program effectiveness measures, program efficiency measures, workload or production measures, staffing standards (or other criteria)..." to explain the governor's recommendations (Sec. 216.162).

GEORGIA

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Art. VIII, Sec. I The provisions of an adequate education for the citizens shall be a primary obligation of the State of Georgia, the expense of which shall be provided for by taxation.

2. Governance: Art. VIII, Sec. III The State Board of Education is composed of one member from each Congressional District in the State. Members are appointed by the Governor with the advice and consent of the Senate. Appointment shall be for seven years.

3. Powers/duties of the State: Art. VIII, Sec. III requires that there be a State Board of Education appointed by the Governor and a State Superintendent elected at the same time and in the same manner and for the same term as that of the Governor. In Art. III, Sec. X, the Governor must submit to the General Assembly a budget message and budget report to meet the current expenses of the State for the next fiscal year. The General Assembly shall also provide for the regulation and management of the finance and fiscal administration of the State.

B. Higher Education

1. General: Art. VIII, Sec. IV The Board of Regents governs, controls and manages all of the University Systems of Georgia and all of its institutions.

2. Governance: Art. VIII, Sec. IV The Board of Regents shall consist of one member from each congressional District in the state, and five additional members from the state at large appointed by the Governor and confirmed by the senate.

3. Powers/duties: Art. VIII, Sec. IV The Board of Regents of the University System of Georgia has the power and duties as provided by law existing at the time of the adoption of the constitution of 1945, together with such further powers and duties as may be provided by law.

STATUTORY REQUIREMENTS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

   a. Structure: Under the provisions of Title 32, Sec. 401 a "State Board of Education" is created consisting of one member from each congressional district in the state and appointed by the Governor. Sec. 402: Terms of office shall be for seven years. (See also Constitution, Art. VIII, Sec. III, *supra*).

   b. Powers/duties: Title 32, Sec. 408 The state board is responsible for providing rules and regulations for Supervision of schools. In addition, the board must prepare and submit to the Governor and General Assembly of the State of Georgia estimates of the funds necessary for the administration of the common school fund and is responsible for the maintenance of the office of the State Department of Education and State Superintendent of Schools.

3. Chief State School Officer

   a. Structure: Title 32, Sec. 501, provides that the State Superintendent of Schools be elected by the same people at the same time and in the same manner as the Governor.

   b. Powers/duties: The state Superintendent of Schools serves as the executive secretary of the State Board of Education, and is the administrative officer of the State Department of Education (Title 32, Sec. 504). He shall be charged with the administration of the school laws and general superintendance of the business relating to the common schools. In addition, the superintendent is to carry out and enforce all laws governing the schools receiving state aid.

4. Department of Public Instruction

   The State Board of Education prescribes all rules and regulations and enforces minimum standards for operation of all phases of public education in Georgia. Under the direction of the board a State Department of Education is authorized to carry out the policy of the board. (Title 32, Sec. 654a *et seq*.)

B. Higher Education

1. General

2. Board/Agency

   a. Structure: Under the provisions of title 32, Sec. 104, the Board of Regents is created. It consists of one member from each congressional district in the state and five additional members from the state at large, appointed by the governor and confirmed by the Senate. Under Sec. 402 the terms of office is established for seven years (see also Constitution Art. VIII, Sec. IV, Supra).

b. Power/duties: The board of regents has the power to make reasonable rules and regulations as necessary for the performance of its duties. It may exercise any power usually granted to such corporations, necessary to its usefulness, which is not in conflict with the constitution and law of this state.

III. Provisions for Legislative Oversight Affecting Education

A. Fiscal Affairs Subcommittees

Section 47-511 of the Georgia code creates fiscal affairs subcommittees, one each for the house and the senate. The president of the senate and the governor select four and five senate members respectively for this subcommittee to which is added the lieutenant governor; the speaker and the governor select four and five members of the house respectively to which is added the speaker to make up the committees. The subcommittees have the authority to review budget requests (Sec. 47-514) of any state government entity and to make recommendations (Sec. 47-515) to the legislature "to improve the efficiency in the operation and management (of any government entity) as they see fit." These subcommittees meet jointly to approve or disapprove budget object transfers as requested by the governor (Sec. 47-516).

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints the state board of education as well as the board of regents. See Constitution, Art. VIII, Sec. III and IV, I-A-2, I-A-3, and I-B-2, supra. See also Title 32, Sec. 104, 401 and 402, II-A-2 and II-B-2, supra.

B. Budget: The Governor, through the Office of Planning and Budget, shall prepare and submit to the General Assembly a budget report, for consideration either with or without amendments and modifications by the General Assembly (Title 40, Sec. 405). Sec. 406 requires that specific and detailed information be provided in the Governor's budget.

C. Other: The Governor must submit an annual report to the General Assembly on polices and goals of the administration (Title 40, Sec. 230).

HAWAII

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Under Art. IX, Sec. 1, "The State shall provide for the establishment, support and control of a statewide system of public schools free from sectarian control, a state university, public libraries and such other educational institutions as may be deemed desirable, including physical facilities therefor. There shall be no segregation in public educational institutions because of race, religion or ancestry; nor shall public funds be appropriated for the support or benefit of any sectarian or private educational institution."

2. Governance: Under Art. IX, Sec. 2, "There shall be a board of education composed of members who shall be elected by qualified voters in accordance with law. At least part of the membership of the board shall represent geographic subdivisions of the State."

3. Powers/duties: The board of education shall have power, in accordance with law, to formulate policy, and to exercise control over the public school system through its executive officer, the superintendent of education, who shall be appointed by the board and shall serve as secretary to the board.

B. Higher Education

1. General: See Art. IX, Sec. 1, *supra*.,also Sec. 4. "The University of Hawaii is hereby established as the state university and constituted a body corporate. It shall have title to all the real and personal property now or hereafter set aside or conveyed to it, which shall be held in public trust for its purposes, to be administered and disposed of according to law."

2. Governance: Under Art. IX, Sec. 5, "There shall be a board of regents of the University of Hawaii, the members of which shall be nominated and, by and with the advice and consent of the senate, appointed by the governor." At least part of the membership of the board shall represent geographic subdivisions of the State.

3. Powers/duties: Under Art. IX, Sec. 5, The board shall have power, in accordance with law, to formulate policy, and to exercise control over the university through its executive officer, the president of the university, who shall be appointed by the board.

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

   a. Structure: Under Sec. 296-2, there shall be a principal executive department of education which shall be headed by an elected executive board to be known as the board of education. Under Sec. 296-6 the board shall elect from its own membership a chairman and a vice-chairman. (Under 296-7, there shall be a district school advisory council in each school board district).

   b. Powers/duties: Under Sec. 296-2, the board shall have power in accordance with law to formulate policy and to exercise control over the public school system through its executive officer, the superintendent of education. Sec. 296-12 provides authority for the board to adopt rules and regulations "for the government of all teachers, educational officers, other personnel and teachers..." This includes the power of the department (Sec. 296-15) to appoint and remove teachers and other personnel. The board may use and expend federal funds for pregrade to fourteenth grade (Sec. 296-33) and to secure such funds (Sec. 296-35), though the "director of finance of the state" is custodian of such funds (Sec. 296-34). The board is charged with developing a school budget including all salaries (teachers, superintendents and all other department personnel) as well as books, supplies, etc. (Sec. 296-36).

3. Chief State School Officer

   a. Structure: Sec. 296-2. The superintendent shall be appointed and may be removed by a majority vote of the members of the board and shall serve as secretary of the board.

   b. Powers/duties: Sec. 26-12 provides that "the superintendent shall administer programs of education and public instruction through-out the state, including education at the preschool, primary and secondary levels, adult education..." Sec. 296-12 re-affirms and details Sec. 26-12.

4. Department of Public Instruction

The structures as well as the power and duties of the "department of education" are concurrent with board and superintendent. See Sec. 296.2 and Sec. 26.12; II-A-2 and II-A-3, supra.

B. Higher Education

1. General: Under Sec. 304-1 there shall be a University of Hawaii which shall consist of such colleges and departments as may from time to time be established. No person shall, because of race, color, religion, sex, national origin, or a physical handicap, be deprived of the privileges of this institution.

2. Board/Agency

a. Structure: Sec. 26-11 establishes an executive board for the University of Hawaii known as the board of regents. Under Sec. 304.3, the affairs of the university "shall be under the general management and control of the board of regents" consisting of eleven members who shall be appointed and may be removed by the governor. State officers shall be eligible to appointment and membership. The president of the university shall act as executive officer of the board. Under Sec. 305-1, "the board of regents of the University of Hawaii shall develop and administer a system of community colleges." Sec. 305A-2 establishes the board of regents as the state board of vocational education and Sec. 305H-1 establishes that board, with additional appointments, as the state post-secondary education commission.

b. Powers/duties: Sec. 26-11 provides that the board "shall have power...to formulate policy, and to exercise control over the university...." Under Sec. 304-4, the board of regents may purchase or otherwise acquire lands, buildings, and other property for the purposes of the university and expend such sums of money as may from time to time be placed at the disposal of the university from whatever source. The board may charge a resident tuition fee for regular courses of instruction at any University of Hawaii campus, and adopt the necessary rules and regulations of defining residence for tuition purposes. Under 305A-3 the board may cooperate with the U.S. Dept of HEW in the administration of the provisions of the Acts of Congress and in applying for and receiving federal funds.

III. Provisions for Legislative Oversight Affecting Education

A. System for Program and Financial Management

Sec. 37-63 et. seq. provides for a comprehensive and systematic review of programs and budgets. Sec. 37-63 establishes the purpose of "a comprehensive system for state program and financial management" for the governor and the legislature. This includes establishment, continuing review and revision of program and budgets, long-range program and financial plans, evaluation of objectives, policies, plans and procedures, and "the regular appraisal and reporting of performance." The rules governing all such plans are outlined in Sec. 37-64. Responsibilities of the legislature are given in Sec. 37-66 which generally require the consideration and adoption of budgets only by review of plans. Sec. 37-70 further specifies "program memoranda" as part of the governor's budget to be reviewed by the legislature (program overview, program changes and emerging conditions, trends, issues).

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints the board of regents (Art. IX, Sec. 5; see I-B-2, supra).

B. Budget: The governor must submit to the legislature "a budget which shall contain the program and budget recommendations" to the legislature (Sec. 37-71). This must include the program memoranda (Sec. 37-70; see III-A-supra) and, in general, specific budget recommendations related to each state financed program. See Sec. 37-63 through 37-74 particularly.

C. Other

1. Commission on the year 2000

There is hereby established within the office of the governor for administrative purposes a commission on the year 2000 composed of nine members to be appointed and removed by the governor. The commission shall assist and coordinate the plans, programs, and activities of individuals, associations, corporations, and agencies, whether public or private, concerned with the future of Hawaii. It shall devise and recommend legislative and administrative action for the accomplishment of the State's economic, political, cultural, social and environmental goals, the effects and changes produced by scientific and technological achievements, and social changes with respect to the economic, political, cultural, and social systems and the environment of the state of Hawaii, and the world (Sec. 221-1).

2. Policy and Planning Coordination

The director of the department of planning and economic development shall analyze existing state policies, planning and program operations, laws, rules and practices relative to formulation, implementation and coordination of the state plan. He shall review and make periodic reports to the policy council on the actions of state and county agencies relative to the state plan (Sec. 225-1). Under Sec. 226-21, to achieve the education objective, it shall be the policy of the state to promote programs and activities that facilitate the acquisition of basic skills, such as reading, writing, computing, listening, speaking, and reasoning to emphasize quality educational programs in Hawaii's institutions, to promote academic excellence, and to support research programs and activities that enhance the education programs of the state (Sec. 225-1).

IDAHO

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Art. IX, Sec. 1 of the Idaho Constitution provides that "The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the legislature of Idaho, to establish and maintain a general, uniform and thorough system of public, free common schools."

2. Governance: Art. IX, Sec. 2 mandates a "state board of education" as well as a "state superintendent of public instruction."

3. Powers/duties of the state: Specific duties and powers of the state are reserved for provision by law, but the constitution provides, directly or indirectly, (Art. IX, Sec. 3, 4, 7, 8) that the state fund public education through sale or use of lands originally provided for education purposes.

B. Higher Education

1. General

2. Governance: Article IX, Sec. 10 confirms the location of and provides for the University of Idaho (previously established by law). This section also provides for "regents" who shall have general supervisory powers and control over the university.

3. Powers/duties of the state: Section 10 of Article IX provides for the proper disposition of lands granted to the university of Idaho. Section 11 permits the loaning of proceeds from the sale of land to various government entities as the legislature provides.

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

a. Structure: Title 33, Sec. 101 of the Idaho code provides for a "state board of education" for the "general supervision, government and control of all state educational institutions." The purview of the board thus includes public elementary-secondary schools, junior colleges and all college and senior institutions. The board thus subsumes the board of regents of the university of Idaho as provided by the constitution, Art. IX, Sec. 10. (See I-B-2, supra). The state board also comprises the state board for vocational education (33-2202) with powers similar to those otherwise described for the board, post. (See also Title 33 Sec. 2211).

The state superintendent of education sits ex-officio as a voting member of the board along with seven members appointed by the governor and confirmed by the Senate for a term of five years, without regard to locality, occupation or party affiliation (Title 33 Sec. 102). The board may appoint an executive officer of the board who may or may not be the state superintendent.

b. Powers/duties: Title 33, Sec. 107 provides for general supervisory responsibilities over education, to make rules and regulations for the department, to ascertain that school laws are enforced, and to "study the educational conditions and needs of the state and recommend to the legislature needed changes..." (See also 33-109). The board must also maintain a record of all post-secondary courses and programs offered in the state by state and out-of-state institutions. It may contract with the federal government for funds and must develop the budget for all state educational institutions.

3. Chief State School Officer

a. Structure: See constitution Art. IX, Sec. 2 in I-A-2, supra. See also Title 33 Sec. 103 in II-A-2, supra. Title 67, Sec. 1501 provides that the superintendent be elected by the people every four years in a general election.

b. Powers/duties: Title 67, Sec. 1504 reaffirms that the superintendent is an ex-officio voting member of the state board. He is to enforce all rules and regulations of the board dealing with elementary-secondary education, meet with local superintendents (67-1503) and report to the governor and to the board on the condition of public schools and the financial status and needs of the schools (67-1506).

4. Department of Public Instruction

Title 33, Sec. 125 establishes "as an executive agency of the state board of education a department of education." The state superintendent is its executive officer and it is required to carry out the policy, procedures and duties authorized by law or by the state board for all elementary and secondary schools.

B. Higher Education

1. General

2. Board/Agency

a. Structure: Established in Art. IX, Sec. 10 of the constitution (See I-B-2. supra) and by Title 33, Sec. 101 of the code (See II-A-2, supra). See also Title 33, Sec. 2802.

b. Power/duties: Established in Title 33, Sec. 107 (See II-A-2b, supra). See also Title 33, Sec. 109-113. See also Title 33, Sec. 2804.

III. Provisions for Legislative Oversight Affecting Education

A. Legislative Council

A legislative council is created under Title 67-427. It is made up of the president of the senate, the speaker of the house and four members each from the house and senate. It may appoint such committees as it deems necessary (67-428) for efficient performance, and must appoint a research director. It is the duty of the council to collect information, draft bills and to "conduct research upon any subject which the legislature may authorize... or upon any subject which it may determine..." (provided they are related to legislative purpose). The council or any of its members may conduct public hearings.

B. Joint Finance-Appropriations Committee

Title 67. Sec. 432 creates a joint finance-appropriations committee which consists of the membership of the senate finance and house appropriations committees. It may create subcommittees to include other members of the legislature (67-433). It is to study and review "management, operations, programs and fiscal needs" of state government as well as any local unit receiving state funds. In addition, it reviews the executive budget, by government entity, conducts audits, and is to study the state's financial condition, budgeting procedures, fiscal organization, personnel management and other aspects of government. It is authorized to conduct hearings as it deems necessary and to report all activities to the legislature. (For more specific information see also 67-437, 438, 439).

C. Legislative Auditor

The office of "legislative auditor for the state of Idaho" is created by Title 67, Sec. 441. The legislative auditor is appointed for six years by the joint finance-appropriations committee, subject to house and senate confirmation. The auditor may hire staff (67-444) with which to conduct finance and/or performance post audits concerning any unit of state governments he makes recommendations to the joint finance appropriations committee concerning the "management, efficiency, economy and effectiveness" of any unit (67-445). Additional specific duties are enumerated (67-449), such as mandatory audits and supervision of accounts.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints seven of the eight member state board (33-101). See II-A-2, supra.

B. Budget: The governor is responsible for preparing and submitting a detailed budget (in a format prescribed by the legislature) to the legislature within five days of the convening of each regular legislative session (67-3506). (See also 67-3504, 67-3505 and 67-3507).

ILLINOIS

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

  A. Lower Education

    1. General: Art. X, Sec. 1. "The State shall provide for an efficient system of high quality public educational institutions and services. Education in public schools through the secondary level shall be free. There may be such other free education as the General Assembly provides by law.

    2. Governance: Art. X, Sec. 2 creates a "State Board of Education" to be elected or selected on a regional basis. The number of members, their qualifications, terms of office and manner of election or selection shall be provided by law. The state board is also to "appoint a chief state school officer."

    3. Powers/duties of the state: The board, except as limited by law, may establish goals, determine policies, provide for planning and evaluating education programs and recommend financing (Art. X, Sec. 2). "The State has the primary responsibility for financing the system of public education." (Art. X, Sec. 1).

  B. Higher Education

    1. General: implied but not stated, Art. X, Sec. I-A-1, supra.

    2. Governance

    3. Powers/duties of the state

STATUTORY PROVISIONS

II. Establishment Provisions

  A. Lower Education

    1. General

2. Board

   a. Structure: Ch. 122, Sec. 1A-1 provides that a "State Board of Education" be appointed by the governor with the advice and consent of the senate. The board consists of 17 members, appointed according to geographic diversity and political party balance. The term is for six years.

   b. Powers/duties: Ch. 122, Sec. 1A-4 requires that the board appoint a chief state school officer for a contract no longer than three years. The board is also responsible "for the educational policies and guide-lines for public and private schools, pre-school through grade 12 and vocational schools...." The board is also to analyze present and future aims and needs of the schools and recommend needed legislation.

3. Chief State School Officer

   a. Structure: Ch. 122, Sec. 1A-1 provides for board appointment of a "State Superintendent of Education" (Sec. II-A-2a, supra).

   b. Powers/duties: Ch. 122, Sec. 2-3 et. seq. provide for general supervisory powers of the superintendent. In addition, the superintendent is to provide an annual report to the governor concerning reports of the teacher Certification Board and a variety of statistical and financial data designed to review education in the state (Ch. 122, Sec. 2-3.11). Other duties are set by the board (Ch. 122, Sec. 1A-4).

4. Department of Public Instruction

   a. Implied throughout Ch. 122, Sec. 1 and 2 (See II-A-2 and II-A-3, supra) but no formal provision.

5. Other Provisions

   a. The "Illinois Public School Survey Commission" is provided by Ch. 122, Sec. 755. It is made up of the state superintendent, the director of the budget bureau, and five members appointed by members of the house, the senate and the governor. The commission is to study school district reorganization, codification of school law, school administration, the state aid formula, the adequacy of revenue, and other general school affairs.

   b. A "Joint Education Committee" is made up of three members each of the state board of higher education (Ch. 122, Sec. 1A-4). It is to develop "policy on matters of mutual concern to elementary, secondary and higher education...." It is to make recommendations to each of the boards and to the general assembly.

B. Higher Education

1. General

2. Board/Agency

a. Structure: A "Board of Higher Education" is created by Ch. 144, Sec. 182, consisting of 17 members, ten of whom are appointed by the governor with the advice and consent of the senate and seven of whom are ex-officio. The appointive members serve six year terms (Ch. 144, Sec. 183).

b. Powers/duties: Ch. 144, Sec. 186 mandates the board to submit a master plan for education to be submitted to the legislature. The plan shall analyze aims, needs, and requirements for higher education and provide a plan for development -- curricula, standards and facilities. No "unit of instruction" shall be established without board approval (Ch. 144, Sec. 187). The board must also consider (Ch. 144, Sec. 191) the private colleges and universities as well as the junior colleges in its plan. The board is to submit an operational and capital outlay budget to the general assembly, the governor and others detailing needs and considering tuition and fees of the institutions (Ch. 144, Sec. 188). Finally, included in its duties (Ch. 144, Sec. 189), the board must make surveys and evaluations of higher education and recommend needed legislation to the general assembly, provide counsel to the governor, and make a comprehensive biennial report to the governor and the general assembly on its activities.

III. Provisions to Legislative Oversight Affecting Education

A. Legislative Council

In chapter 63, Sec. 33, a legislative council is created consisting of 8 Senators, 8 Representatives, and 4 ex-officio members. This body (63, Sec. 34) collects information concerning the government and general welfare of the State. It acts also in an oversight capacity to "examine the effects of constitutional provisions and previously enacted statutes," to consider issues of public policy and state interest, and to perform research and provide information as the council or the general assembly sees fit.

B. Legislative Economic and Fiscal Commission

In chapter 63, Sec. 342, the Illinois Economic and Fiscal Commission is created, consisting of 24 members total; 12 members to be drawn from the Senate and House committee (or division) whose subject matter is appropriations or revenues and 12 members of the general assembly leadership. This body shall conduct studies, make recommendations and report to the General Assembly on economic development and trends in Illinois and federal fiscal policy as it may affect Illinois. It prepares an annual State economic report (63, Sec. 343).

C. Administrative Procedure Act

Ch. 127, Sec. 1002 limits the applicability of this act somewhat but not entirely regarding the state board of education in that state board a) determinations not affecting state funding, or b) guidelines or policies not having the effect of law, or c) legal opinions affecting the school code are exempted. For other education matters, however, a "Joint Committee on Administrative Rules" is established under 127 Sec. 1007.02. The committee is composed of 16 members of the general assembly. Under 1007.04, the committee is empowered to undertake studies and investigations of agency rules and rule-making procedures and general compliance with this act. The committee may also require each agency to demonstrate the effect of a new rule or a proposal for the repeal of an existing rule. The committee is charged (1007.05) with continual surveillance of rules and the rule-making process with an attempt to eliminate unneeded rules, removing redundancies and, in general, to reduce "the number and bulk of rules...." (See also 1007.06 and 1007.07). Expressly adopted for education 122 Sec. 1A-6.

D. Other Provisions

The "School District Educational Effectiveness and Fiscal Efficiency Act," Ch. 122, Sec. 870.1 is designed to encourage school districts, through incentive grants, to develop a system of "financial planning management and control" by means of broad-based participation in setting goals and objectives.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints the state board of education (Ch. 122, Sec. 1A-1, Sec. II-A-2a *supra*)and some members of the board of higher education (Ch. 144, Sec. 182; Sec. II-B-2a, *supra*).

B. Budget: Ch. 127, Sec. 38 provides that the governor must submit a state budget, detailed by appropriation to departments, offices and institutions and by functions and activities within those entities. Sec. 38.1 further provides that the budget be submitted with line item and program data. The programs must show performance data comparing objectives with achievements.

INDIANA

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1) General: Constitution, Article 8, Sec. 1 It shall be the "duty of the General Assembly to encourage by all suitable means, moral, intellectual, scientific, and agricultural improvement; and to provide, by law, for a general and uniform system of common schools, wherein tuition shall be without charge and equally opened to all."

2) Governance: Article 8, Sec. 8 "The General Assembly shall provide for the election, by voters of the state, of a state superintendent of public instructions who shall hold office for two years."

3) Powers/duties of the state: Article 8, Sec. 2 et. seq. requires that the state fund public education and that funds established for education be held inviolate (Sec. 7).

B. Higher Education

1) General

2) Governance

3) Powers/duties

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1) General

2) Board

a) Structure: Sec. 20-1-1-1. "The Indiana State Board of Education" consists of eighteen members making up 3 commissions with the state superintendent of public instructions as chairman of the board of each commission. All members other than the State Superintendent of Public Instruction shall be appointed by the governor for a term of four years.

b) Powers/duties: Sec. 20-1-1-1. It shall be the duty of the board to coordinate the work of the various commissions (general administration, textbook adoption and teacher training and licensing) so as to bring about an effective and a unified school program. The board is mandated to adopt rules and regulations to govern all aspects of public education including the governance of the state department of education (Sec. 20-1-1-6).

3) Chief State School Officer

a) Structure: Sec. 20-1-11.5-2. "The Superintendent of Public Instruction" is elected for a period of four years by general election of the people.

b) Powers/duties: Title 20. Sec. 20-1-1-1. The state superintendent of public instruction shall be the chairman of the board and of each commission. The superintendent has general powers to carry out the policy of the board as detailed in Sec. 20-1-1-6.

B. Higher Education

1) General

2) Board/Agency

a) Structure: Sec. 20-12-0.5-2. There is created a "commission for higher education of the State of Indiana." The commission shall consist of twelve members, citizens of Indiana, appointed by the governor. Each congressional district shall be represented by at least one member (Sec. 20-12-0.5-5).

b) Power/duties: Sec. 20-12-0.5-3. The general purposes of the commission shall be to plan and coordinate Indiana's state supported system of post-high school education. The commission (Sec. 20-12-0.5-8) is to develop and implement a long range plan for post-high school education, to make recommendations and drafts of legislation to the governor and general assembly and to make recommendations of appropriations. The commission also approves or disapproves new branch campus proposals as well as new program requests.

III. Provisions for Legislative Oversight Affecting Education

A. Legislative Council

Under section 2-5-1.1-1, a "Legislative Council" is created, made up of sixteen members of the house and senate. Under provisions of 2-5-1.1-5, the council may "study subjects of interest and concern" or direct standing committees or special committees to do so. In addition (Sec. 2-5-1.1-6) the council must, among other duties, "review the operations, budgeting practices and expenditures of all state agencies."

B. The Budget Agency

Section 4-12-1-1 provides for a "Budget Agency: which, though not totally a legislative agency, consists of an officer of the executive department and four legislators who work during and between sessions on state appropriations. The general assembly members have the power to make investigations concerning appropriations. This may include (Sec. 4-12-1-8) the requirement for more information and the investigations of operations and records of state agencies.

C. Sunset Act

Sec. 4-26-3-2 establishes a purpose of legislative oversight concerning government agencies and programs. Sec. 4-26-3-4 creates an agency evaluation committee consisting of a standing committee of the house and the senate. The procedure for evaluation is detailed in Sec. 4-26-3-3 and Sec. 4-26-3-5. The latter lists specifically the points which must be developed by the agency and Sec. 4-26-3-8 requires the legislative committee to review objectives, the accomplishment of objectives, overall performance, programs relative to legislative intent, cost, future prospects of the agency and other criteria. Sec. 4-26-3-20 provides for the possible abolishment of the commission on general education, the state board and the state commission on school corporations. Sec. 4-26-3-24 provides for the abolishment and/or evaluation of numerous agencies dealing with higher education, including the education council and the commission for higher education.

D. Higher Education Council

A "Higher Education Council," consisting of eight members of the general assembly, is created under Section 20-12-0.5-12. The council functions as the liaison between the higher education commission and the several institutions to establish priorities, analyze budget information, and to review all sources of revenue (federal, state, private).

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The Governor appoints the state board of education (Sec. 20-1-1-1) Sec. II-A-2a, supra. The Governor also appoints the higher education commission (Sec. 20-12-0.5-12) Sec. II-B-2a, supra.

B. Budget: Both the executive budget agency and a legislative budget committee are involved in the preparation of a biennial budget for the state (Sec. 4-12-1-1 et. seq.) which must be prepared at least 30 days prior to the sessions in which the budget is to be considered. The Governor submits the budget bill to the house members of the budget committee in accord with the form and detail prescribed (Sec. 4-12-1-9).

IOWA

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Under Art. 9, 2nd, Sec. 3, "The General Assembly shall encourage by all suitable means, the promotion of intellectual, scientific, moral and agricultural improvement."

2. Governance: See powers/duties, post.

3. Powers/duties: Art. 9, 2nd, provides that the general assembly shall control all school funds and lands. Art. 9, Sec. 3 mandates that lands provided by congress and all other lands which may come to the state through abscence of will or heirs of deceased by placed and held inviolate in a perpetual school fund.

B. Higher Education

1. General: Sec. 3, supra.

2. Governance

3. Powers/duties

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

a. Structure: Under Sec. 257.1, there is "established a state board of public instruction for the state of Iowa." The board consists of nine members to be appointed by the governor with the approval of two-thirds of senate.

b. Powers/duties: Under 257.9, The board may adopt necessary rules and regulations for the proper enforcement and execution of the provisions of the school laws;

determine and adopt such policies as are authorized by law and are necessary for the more efficient operation of any phase of public education; adopt and prescribe any minimum standards for carrying out the provisions of the school laws; and perform such duties prescribed by law as it may find necessary for the improvement of the state system of public education in carrying out the purposes and objectives of the school laws. Under Sec. 257.10, the board shall direct the distribution of all moneys under the provisions of the law for the distribution of various state and federal aid to schools, advise and counsel and state superintendent of public instruction and other school officials concerning the school laws and the rules and regulations adopted pursuant thereto; adopt a long range program for the state system of public education based upon special studies, and certify instructional, supervisory and administration school personnel. See further Sec. 257.9 and 257.10 at. seq. See also Sec. 257.25 on educational standards for public and private schools.

3. Chief State School Officer:

   a. Structure: Under 257.11, "The state board shall appoint... with the approval of two-thirds of the members of the senate, a superintendent of public instruction." Under 257.12, "The superintendent shall hold a master's degree in education or some related field; he shall have had at least five years experience in educational administration. He shall hold or be eligible to hold a regular Iowa superintendents certificate based upon training."

   b. Powers/duties: The superintendent is chief executive officer of the board (Sec. 257.16). Under Sec. 257.17, "The superintendent shall have the following powers: 1. Exercise general supervision over the state system of public education, including the public elementary and secondary schools, and the junior colleges.... 2. Advise and counsel with the state board on all matters pertaining to education.... 3. Recommend to the state board for adoption such policies pertaining to the state system of public education as he may consider necessary for its more efficient operation. 4. Carry out all orders of the state board not inconsistent with the state law. 5. Organize, staff and administer the state department so as to render the greatest service to public education in the state." Under Sec. 257.18 it is the duty of the superintendent to apportion to the respective school districts of the state all moneys provided by law according to the provisions of the various state and federal aid laws, recommend ways and means of cooperating with the federal government in carrying out any or all phases of the educational program, and act as the executive officer of the state board in all matters pertaining to vocational education and vocational rehabilitation. See further Sec. 257.18.

4. Department of Public Instruction:

Under Sec. 257.19, "There is hereby established a department of public instruction to act as an administrative, supervisory, and consultative agency under the direction of the superintendent of public instruction and the state board. The state department shall be located in the office of the state superintendent, and shall assist the state superintendent in providing professional leadership and guidance and in carrying out such policies, procedures, and duties authorized by law or by the regulations of the state board...." See also Sec. 257.25 on the regulatory activity regarding specific standards and courses of study.

B. Higher Education

1. General:

2. Board/agency

a. Structure: Under Sec. 262.1, "The state board of regents shall consist of nine members who shall be selected from the state at large solely with regard to their qualifications and fitness to discharge the duties of the office. Not more than five members shall be of the same political party." The regents are appointed by the governor with senate ratification. (Sec. 262.6).

b. Powers/duties: Under Sec. 262.9, the board is to elect a president, other officers and faculty of the institutions, make rules for admission to and for the government of institutions of higher learning in the state, manage and control property, belonging to said institutions, and shall direct the expenditure of all appropriations made to said institutions. The board (under 262.26) shall report to the governor and the legislature such facts, observations and conclusions respecting each of such institutions as in the judgement of the board should be considered by the legislature. Such report shall contain an itemized account of the receipts and expenditures of the board, and also the reports made to the board by the executive officers of the several insititutions or a summary thereof, and shall submit budgets for biennial appropriations deemed necessary and proper to be maded or the support of the several institutions. See 262 generally for specific powers and duties.

III. Legislative Provisions Affecting Oversight of Education

A. Budget and Financial Control Committee

Under Sec. 2.41, "There is hereby created a committee to be known as the budget and financial control committee which shall have ten members." Under Sec. 2.43 the purposes of the committee are to gather information relative to budget matters for the purpose of aiding the legislature to properly appropriate money for the functions of government and to report the findings to the legislature. The committee shall make a continuous study of all offices, departments, agencies, boards, bureaus and commissions of the state government and shall determine and recommend to each session of the legislature what changes are necessary to accomplish a reduction in expenditures and a promotion of economy to the fullest extent consistent with duplication of effort on the part of such offices, agencies, board, commissions and departments of the state government. The committee is to make suggestions to the governor regarding budget items (Sec. 2.44).

B. Legislative Fiscal Director

Under Sec. 2.46, "There is hereby created in the budget and financial control committee the office of legislative fiscal director." Under 2.47, the director shall make a continuous review of state expenditures, revenues and analysis of budget through an audit and pre-audit to ascertain the facts, compare cost, work-load and other data, and make recommendations to the general assembly concerning the state's budget and revenue of the departments, boards, commissions and agencies of the state and make a biennial report to the budget and financial control committee.

C. Legislative Research Committee and Bureau

Under 2.49, there is created a legislative research committee, composed of sixteen members. The committee shall conduct studies and evaluate reports of studies assigned to study committees and make recommendations for legislative or administrative action. Recommendations shall include such bills as the research committee may deem advisable.

D. Legislative Council

Under 2.41, there is created a legislative council consisting of twenty members. The council shall establish policies for the operation of the legislative service bureau. The committee shall appoint interim committees, conduct studies, and evaluate reports of studies assigned to study committees and make recommendations for legislative or administrative action thereon. Recommendations shall include such bills as the legislative council may deem advisable.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals

The governor appoints nine members of the state board of education (Sec. 257.1; see II-A-2a, *supra*) as well as the members of the regents (Sec. 262.6; see II-B-2a, *supra*).

B. Budget

The governor is to submit to the legislature a financial program (Sec. 8.21), consisting of three parts, established in Sec. 8.22, the first dealing primarily with revenue, the second with appropriation and the third with the actual bills to be submitted. The latter is to be submitted by "each department or establishment", separating specific operation from capital outlay projects.

KANSAS

CONSTITUTIONAL REQUIREMENTS

I. Establishment of Education

A. Lower Education

1. General: Art. 6, Sec. 1. "The Legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities which may be organized and changed in such manner as may be provided by law."

2. Governance: Art. 6, Sec. 3. The state board of education is the governing board for public education consisting of 10 members with overlapping terms as may be prescribed by the legislature. Board members are elected by the electors of each of the 10 districts. Art. 6, Sec. 4 provides for a commissioner of education to be appointed by the state board.

3. Power/duties of the state: Art. 6, Sec. 2. The state board of education shall have general supervision of public schools, educational institutions and all the educational interests of the state except educational functions delegated by the law to the state board of regents. Art. 6, Sec. 6 provides that the legislature make "provision for finance of the educational interests of the state." No tuition may be charged to public school students, however.

B. Higher Education

1. General: See Art. 6, Sec. 1, supra.

2. Governance: Art. 6, Sec. 3. The nine members of the board of regents shall have overlapping terms as the legislature may prescribe. Members are appointed by the governor and confirmed by the senate.

3. Powers/duties of the state: Art. 6, Sec. permits the legislature to levy a permanent tax for higher education institutions, but the legislature may permit the regents to levy tuition and fees.

STATUTORY REQUIREMENTS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

a. Structure: Sec. 72-7503 provides for a "State Board of Education," the governing board for public education, consisting of 10 members in compliance with sections 2 and 3 of Article 6 of the Constitution.

b. Powers/duties: Under Sec. 72-7513, the control of the state department of education and the supervision of the public school system resides in the state board. They make policies and adopt rules and regulations for school libraries and textbooks and other educational materials as well as courses of study and curriculum. The board accredits schools, certifies administrators, teachers, counselors and supervisors of school districts, of the state department of education, and of the teachers and administrators of non-public schools.

3. Chief State School Officer

a. Structure: Sec. 72-7601 requires that "The Commissioner of Education" be appointed by the state board as provided by Section 4 of Article 6 of the constitution.

b. Power/duties: As provided by Sec. 72-7601, the commissioner shall serve at the pleasure of the board and perform such duties as are prescribed by law or by the state board.

4. Department of Public Instruction

a. The "State Department of Education" is created under Sec. 72-7701. It is an agency of state government and is under the administrative supervision of the commissioner as directed by law and by the state board.

B. Higher Education

1. General

2. Board/Agency

a. Structure: Sec. 74-3201 creates a "State Board of Regents" appointed by the governor, with advice and consent of the senate, consisting of nine citizen members. The board members serve terms of four years.

b. Powers/duties: Sec. 74-3203 empowers the board to appoint an executive officer to carry out the work of the board. See generally board duties Sec. 74-3206 et. seq. Sec. 76-716 provides that the board determine programs and degrees at each state institution. The board may adopt rules and regulations for student admissions (Sec. 76-717), fix tuition and fees (Sec.76-719), and apply for or approve institutional application for federal moneys (Sec. 76-723).

III. Legislative Provisions Affecting Oversight of Education

A. Legislative Post Audit Committee

Under Sec. 46-1101, the "Legislative Post-Audit Committee" consists of five senators and five members of the house of representatives. The committee establishes a division of post-audit within the legislative branch of the government. Under the direct supervision of a post auditor in accordance with policies adopted by the legislative post audit committee (Sec. 46-1103). The post auditor has the responsibility of auditing the financial affairs of every state agency at least once every two years, shall determine whether all requirements of law with respect to the installation and use of accounting systems, books, records, forms, rules and regulations are being complied with by each state agency.

B. Legislative Coordinating Council

Sec. 46-1201. The "Legislative Coordinating Council" consists of seven members (total) from the senate and house of representatives. Aside from legislative management, the council serves as the coordinating body for legislative studies. It has the authority to initiate and refer such studies to the appropriate subcommittee (Sec. 46-1206).

C. Legislative Budget Committee

The "Legislative Budget Committee," Sec. 46-1208, consists of seven members of the legislature appointed by the legislative coordinating council. The committee is responsible for compiling fiscal information and makes a continuous study of the state budget, revenues and expenditures. They also ascertain facts and make recommendations to the legislature concerning the state budget, the revenues and expenditures of the state, and of the organization and functions of the state.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints the Regents for higher education. (Art. 6, Sec. 3 of the Constitution; Sec. I-B-2, supra. See also Sec. 74-3201; II-B-2a, supra).

B. Budget: Sec. 75-3721 provides that the governor project his or her budget report to the legislature in three parts. Part I shall consist of a budget message including recommendations with reference to the fiscal policy of the state government. Part II includes detailed estimates, both of expenditures and revenues, showing the request of the state agencies. Part III consists of 1 draft of 2 legislative measure or measures reflecting the incoming governor's budget.

KENTUCKY

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Under Sec. 183, the "General Assembly shall, by appropriate legislation, provide for an efficient system of common schools throughout the state."

2. Governance

3. Powers/duties of the state: Sec. 184-186 and 188 provides that a "common school fund" be created and that the state fund the common schools from the various sources of revenue.

B. Higher Education

1. General

2. Governance

3. Powers/duties of the state

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

a. Structure: Under Sec. 156.030, "There shall be a state board for elementary and secondary education composed of seven lay members." The voting members of the board are appointed by the governor. There shall be two ex-officio, non-voting members, one from the council of higher education, one from the state board for occupational education. The superintendent of public instruction will serve as the executive officer of the state board.

b. Powers/duties: Sec. 156.030 provides that the primary functions of the state board is to develop policies and regulations which shall govern the "planning, coordinating, administering, supervising, operating and evaluating the education programs, services and activities..." Under Sec. 156.070, the state board for elementary and secondary education shall have the management and control of the common schools, and all programs operated in such schools. The board is also charged (Sec. 156.160) with adopting rules and regulations regarding minimum courses of study, accreditation of common schools, transportation, approval of private and parochial schools and the preparation of budgets.

3. Chief State School Officer

   a. Structure: Under Sec. 156.010 the superintendent of public instruction shall be the executive officer of the department of education. The constitution requires the superintendent to be elected by the people for a term of four years (Sec. 91).

   b. Powers/duties: Sec. 156.010. The superintendent is responsible for implementing board policies and for the "administrative functions of the state in relation to the management and control of the public common schools, vocational education (and other)..." See also powers of the board addressed in Sec. 156.160, supra.

4. Department of Public Instruction

See Sec. 156.070, supra. Also under Sec. 156.010 "the department of education shall consist of the state board for elementary and secondary education, the department for elementary and secondary education, the state board for occupational education, and the superintendent of public instruction who shall be the executive officer of the department. The department of education shall exercise all the administrative functions of the state in relation to the management and control of the public common schools...."

5. State Board for Occupational Education

Under Sec. 156.112 the board shall consist of nine members, seven of which shall be appointed by the governor. The primary function of the board shall be to develop and adopt policies and regulations by which the department for occupational education shall be governed in planning, coordinating, administering, supervising, operating and evaluating occupational education programs, services, and activities within the scope of its authorized responsibility. It is the state agency designated to prepare plans for vocational education requisite to receiving federal funds.

B. Higher Education

1. General

2. Board/Agency

a. Structure: Sec. 164.010, There shall be a council on higher education in Kentucky to be composed of the Superintendent of public instruction, one member of the state board for elementary and secondary education, one member of the state board for occupational education and 10 lay members appointed by the governor. The lay members shall be appointed for terms of four years.

b. Powers/duties: Under Sec. 164.020. Among its duties, the council shall engage in analysis and research to determine the overall needs of higher education in the commonwealth and develop and transmit to the governor comprehensive plans which meet the needs of the commonwealth. The plans so developed shall conform to the respective function and duties of the state colleges and universities, the community colleges and the University of Kentucky. The council shall consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the institutions to the council.... The council shall review and approve all capital construction projects the cost of which exceeds one hundred thousand dollars approved by the governing boards of the state supported institutions of higher education.... The council shall require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties. It shall approve the teacher education programs in the public institutions. It shall define and approve the offering of all higher education associate, baccalaureate, graduate, and professional degree or certificate programs....

III. Provisions for Legislative Oversight Affecting Education

A. Legislative Auditing Committee

Under Sec. 6.360, the legislative auditing committee is established to insure the postauditing of each agency of the state government for the purpose of furnishing the legislature with factual information necessary to the discharge of its legislative duties. The committee shall be made up of two members of the majority party of the general assembly and 1 member of the minority party from each house. The terms of all members shall be two years (Sec. 6365). Under Sec. 6.370 the committee shall study and examine expenditures of state agencies and engage whatever firms or specialists needed to carry out its work. The committee appoints the legislative auditor.

B. Legislative Auditor

Under Sec. 6.375 establishes the position of the legislative auditor. Under Sec. 6.380 the legislative auditor may perform an audit of accounts, books and other financial records of the state government or of any officer, department, board, bureau, institution, commission, agency or other unity of the state and prepare a written report of the audit for presentation to the legislative audit committee.

C. Legislative Research Commission

Under Sec. 7.090 the legislative research commission is created composed of members of the legislature. Under Sec. 7.100 the commission shall make or cause to be made investigations into statute law, legislation, governmental agencies and institutions and matters of public policy as will aid the general assembly in performing its duties in the most efficient and economical manner. The commission shall have access to all records of every agency, division or department of state government, and of any agency or institution which is recipient of public funds. Under Sec. 7.320 the Commission may study and examine expenditures of state agencies. The commission may examine and audit any fiscal books, records and accounts of custodians of public funds... It shall review and evaluate any program supported in whole or in part by state appropriation....

D. Legislative Program Review and Investigation Committee

Under Sec. 6.905 there is created a legislative program review and investigations committee which shall be a permanent standing committee of the general assembly. It shall consist of eight members of the senate and eight members of the house. They shall serve for two years. Under Sec. 6.910 the committee shall make performance reviews of operations of state agencies to ascertain the sums appropriated have been, or are being expanded for the purposes for which such appropriations were made, and to evaluate the effectiveness of programs in accomplishing legislative intent. Further, it is to study operations, practices and duties of state agencies relating to the space, personnel, equipment and facilities and such other special duties as the committee deems appropriate. It is also to determine whether the programs and activities of an agency or program are operating in accord with legislative intent.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/approvals: The governor appoints seven members of the state board (Sec. 156.030). Under Sec. 14.010 nine lay members of the council on public higher education shall be appointed by the governor. Under Sec. 156.112 seven members of the state board for occupational education shall be appointed by the governor.

B. Budget: Sec. 45.030 requires that the governor prepare and submit a budget to each regular session of the general assembly. Sec. 45.040 requires that the budget be a "complete financial plan" and elaborates that details of expenditures and requests be listed by budget unit.

LOUISIANA

CONSTITUTIONAL REQUIREMENTS

I. Establishment Provisions

Preamble

"Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."

A. Lower Education

1. General: Constitution, Art. VIII, Sec. 1 "The legislature shall provide for the education of the people of the state and shall establish and maintain a public educational system."

2. Governance: Art. VIII, Sec. 3 A "State Board of Elementary and Secondary Education" consisting of eight elected members from different districts and three appointed by the Governor with the consent of the senate. All terms are for six years.

3. Powers/duties of the state: The board is charged with the supervision and control of public elementary and secondary education (including vocational, technical, and special schools) but no control over the "business affairs" or employees of the locality. They are charged (Sec. 4) to approve private schools meeting state criteria if the private schools apply. Art. VIII, Sec. 2 provides for a "State Superintendent of Education" to be elected for a four year term with a proviso allowing for appointment by the board. He is "the administrative head of the Department of Education."

B. Higher Education

1. General

2. Governance: Art. VIII, Sec. 5 creates a "Board of Regents" consisting of fifteen members appointed by the governor with senate consent. At least one member shall be from each congressional district.

3. Powers/duties of the state: Art. VIII, Sec. 5 mandates at least two meetings annually with the state board for elementary and secondary education and charges the board of regents with approving, revising or eliminating degree programs and departments or divisions of instruction. It must recommend new post-secondary institutions to the legislature which must act favorably by a 2/3 vote before such an institution is established. The regents are to develop a master plan for higher education including budget recommendations (not stipulated to whom submitted). Other powers are reserved to the governing boards of the several institutions.

STATUTORY REQUIREMENTS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

   a. Structure: RS 17 Sec. 1 "The Louisiana State Board of Education" consists of eleven members, three of whom are appointed by the Governor, with senate consent, eight of whom are elected by the people of each congressional district. Term of office is six years.

   b. Powers/duties: RS 17 Sec. 6 The board supervises and controls public elementary and secondary schools, vocational-technical schools, post-secondary vocational-technical schools and all other non-collegiate programs. It has complete budgetary responsibilities, may employ specialists for board sub-committees, award diplomas and generally oversee all education functions. In addition, (RS 17 Sec. 7) it must certify teachers, coordinate all educational programs with the Board of Regents and, with the Regents, approve teacher education programs. It is also responsible for adult and continuing education (RS 17 Sec. 14). RS 17 Sec. 3141.15 provides that the board shall approve or disapprove occupational degree proposals of post-secondary proprietary schools. Guidelines for the establishment and approval of such programs are provided by law.

3. Chief State School Officer

   a. Structure: RS 17 Sec. 21 The "superintendent of education" is elected for a period of four years by general election of the people.

   b. Powers/duties: RS 17 Sec. 22 As secretary of the board, the superintendent may act on behalf of the board. He/she provides staff services to the board, implements board policy, and acts as "state educational agency with respect to federal funds." It is his responsibility to prepare the minimum foundation program for funding of schools. He/she must report annually to the board, the Governor, and the legislature on the conditions of education.

4. Department of Public Instruction

   a. Structure: A "Department of Education" is created in RS 15 Sec. 642 to administer the functions of the superintendent, the board of elementary and secondary education, the board of regents, the board of trustees for state colleges and universities and the board for Louisiana State Universities as well as other governmental entities. For specific inclusions, see RS 36.651 and RS 36.801 et.seq.

b. Powers/duties: The powers and duties of the department are implied in RS 36.643 et. seq. (see superintendent, supra) and under higher education provision generally, post.

5. Other Provisions

RS 17 Sec. 3151 creates a "State Education Study Commission" composed of (Sec. 3152) four members of the state board, one member from the coordinating council for higher education (regents) and ten members appointed by the state superintendent of education. Every congressional district must be represented. Term of office is not specified. The purpose of the study commission (Sec. 3151) is to prepare a master education plan for pre-school, public and private non-collegiate education.

B. Higher Education

1. General

2. Board/Agency

a. Structure: RS 17 Sec. 3121 affirms statutory provisions as cited in the constitution. See I-B-2 supra.

b. Powers/duties: RS 17 Sec. 3126-3129 in general reaffirm the provisions of the constitution. Emphasis and clarity are added in Sec. 3126 that "No college or university may institute a new degree program..." without board approval. Sec. 3129 adds that the budget recommendations of the board must be submitted to the governor and to the legislature.

III. Provision for Legislative Oversight Affecting Education

A. Legislative Budget Committee

In Louisiana RS 39 Sec. 311, Twenty-eight members, twelve from the house and twelve from the senate, are appointed by the governor in addition to the Chair of the House Appropriations, the Speaker of the House, the Chair of the Senate Finance and President of the Senate which make up this committee. Under RS 39 Sec. 312, the Committee is to study matters of the budget, with authority to recommend and assist in implementing zero base budgeting, and work with the governor's office in the preparation of the budget that is subsequently presented to the legislature. It reports and makes recommendations to the legislature.

B. Administrative Procedures Act

State agencies are required, through an administrative procedures act (RS 49 Sec. 951), to file and make public not only an organizational description of the agency but a complete disclosure of all agency "policy or interpretations formulated, adopted or used by the agency". Notice must be given and a public hearing held if requested on substantive rules, prior to the adoption of new rules (RS 49 Sec. 953).

C. Joint Committee on Legislative Oversight

A "Joint Committee on Legislative Oversight" is established consisting of ten members, five each from the house and the senate (RS 24.671). The committee is to conduct studies and propose studies necessary for continued reorganization of the executive branch. It is to use what staff it needs from the legislative and executive branches or may hire its own staff to conduct its work (RS 24.674) and to make reports to the governor and to the legislative (RS 24.676). The studies may include "the nature (of agency) powers, duties, functions and responsibilities" and how these may be better allocated among agencies to eleminate duplication and promote coordination. In a word, the committee may review all management, finance budget and other responsibilities needed to exercise legislative oversight (RS 24.681). See also RS 24.682) and expecially RS 24.691 regarding "program review" which are indepth studies and evaluation of state agencies.

D. Sunset Act

RS 49.190 through RS 49.199 creates statutory authority to terminate and recreate statutory institutes. Statutory entities of the department of education (supra) are included. RS 49.193 outlines the procedure for agency review, including the improvement of a zero-based budgeting system. The evaluation by the appropriate standing committees of each house (assigned by the speaker and the president) are to include the elemination of inactive, duplicative, unnecessary, inefficient or ineffective entities, programs or activities (See RS 49.193 for further detail).

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints three of the eleven person state board (Art. VIII, Sec. 3; see I-A-2 supra) and all members of the higher education board (Art. VIII, Sec. 5; see I-B-2 supra; also see II-A-2a supra).

B. Budget: Acomplete financial plan is to be submitted, including "names of the budget units for which a complete zero base review as accomplished": also to be included are agency objectives, activities, performance evaluations and priorities (RS 39 Sec. 43.1). Each member of the legislature is to receive a copy of the budget document from the governor (RS 30 Sec. 41; See also Constitution, Article 4 Sec. 50 and Article 7 Sec. 11).

MAINE

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Art. VIII, Sec. 1 "A general diffusion of the advantages of education being essential to the preservation of the rights and liberties of the people (sic); to promote this important object, the legislature are (sic) authorized and it shall be their duty to require, the several towns to make suitable provision, at their own expense, for the support and maintenance of public schools...."

2. Governance

3. Powers/duties: Art. VIII, Sec. 1, provides that the state shall "encourage and suitably endow" schooling at the levels providing only that the state has the right to make laws governing such institutions.

B. Higher Education

1. General: Art. VIII, Sec. 1 encourages the establishment of academies, colleges, and seminaries.

2. Governance

3. Powers/duties: Art. VIII, Sec. 2 In order to develop "intellectual and mental capacities" the state has the option of making loans to Maine students in order that they may attend institutions of higher education.

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

a. Structure: Under Title 20, Sec. 51 "There is created a State Board of Education which shall consist of nine members who shall be appointed by the governor, subject to review by the Joint Standing Committee on Education and to confirmation by the legislature.... The term of office shall be five years...."

b. Powers/duties: Title 20, Sec. 51 provides that the board shall act in an advisory capacity to the "Commissioner of Educational and Cultural Services". It shall also make recommendations to the legislature for the efficient conduct of the public schools of the state and shall establish and maintain state technical and vocational institutions.

The board must further establish administrative districts, accredit public elementary - secondary schools, and recommend an equalization budget for the state's schools. Among other duties mandated are the certification of teachers (Title 20, Sec. 59). The board, acting in this capacity must establish an advisory board at least 50% of whom are teachers. The board also has the power to approve or disapprove a recommendation for any institution seeking to grant an educational, literary, academic, or professional degree in the state (Title 20, Sec. 2202).

3. Chief State School Officer

   a. Structure: Title 20, Sec. 1-a. The "Department of Educational and Cultural Services" shall consist of a Commissioner of Educational and Cultural Services who shall be appointed by the Governor from a list of three candidates prepared by the State Board of Education. The appointment is subject to review by the Joint Standing Committee on Education and confirmation by the legislature.

   b. Powers/duties: Under Title 20, Sec. 102. The commissioner is authorized to hire whatever personnel he deems necessary to fulfill the duties of the department. He shall exercise general supervision of all the public schools and advise and direct the superintendents in the discharge of their duties. It is the duty of the commissioner to oversee the "Maine Assessment of Educational Progress", to prescribe the studies to be taught in the public schools ("and in private schools approved for attendance and tuition purposes"), and must make an annual report to the governor with recommendations for school improvement.

4. Department of Public Instruction

   Title 20, Sec. 1-a. "There is created and established the Department of Educational and Cultural Services to supervise, guide and plan for a coordinated system for public education for all citizens of the State and interrelate public education to other social, economic, physical and governmental activities, programs and services...." Governance, powers and duties implied or expressed throughout Title 20. See state board and commissioner, supra.

B. Higher Education

1. General

2. Board/Agency

   a. Structure: There is created and established a state agency to be called the Post-secondary Education Commission of Maine (Title 20, Sec. 71). PECOM shall be comprised of 16 members from the following groups: 1) Representatives of public boards and advisory councils, 2) the Chancellor of the University of Maine and the Commissioner of Educational and Cultural Services, 3) representatives of private nonprofit institutions of post-secondary education, 4) representatives of proprietary institutions of post-secondary education.

5) representatives of the general public. Terms of office are four years (except ex-officio members). Representatives are elected by their respective groups excepting the general public representatives who are appointed by the governor.

b. Powers/duties: Under Title 20, Sec. 73, the commission must conduct comprehensive planning for post-secondary education in Maine, including planning in cooperation with the New England Board of Higher Education and other New England states, assure the development, maintenance and accessibility of diversified post-secondary educational opportunities of high quality for Maine citizens...." It must report annually to the governor and the legislature on the state of post-secondary education in Maine and make studies of post-secondary education as requested by the legislature or the governor.

III. Provisions for Legislative Oversight Affecting Education

A. Legislative Council

Under Title 3, Sec. 161, "There is established a Legislative Council" to consist of 10 members, five of whom shall be members of the senate and five of whom shall be members of the house of representatives. Title 20, Sec. 162 provides that the legislative council prepare and approve all legislative budgets and assign studies to joint standing and select committees and to request reports and studies from those committees.

B. Legislative Review

Title 5, Sec. 1705, The director of a state agency shall submit, at the same time that a federal grant application is submitted to the Federal Government, a copy of each application to the Legislative Finance Officer.

C. Legislative Finance Officer

Title 7, Sec. 167, The legislative finance officer shall collect and assemble factual information concerning the fiscal affairs of the State for the use of the Joint Appropriations and Financial Affairs Committee. He will examine all requests for appropriations made by the various agencies of the state government, and shall report as shall be directed by the Legislative Council as to any matters which may be of assistance to the committee or the Legislature in forming an independent judgement in the determination of any fiscal matters.

D. Maine Sunset Act

Under Title 3, Sec. 502, the Maine Sunset Act requires the Legislature to evaluate the need for and performance of present and future departments and agencies on a periodic basis. Under Sec. 504 each department shall prepare and submit to the legislature a justification report. Each report shall include a description of each program and activity and each advisory body to the department or agency. Each report should include a description of objectives, shall account for or estimate the amount of all moneys received or expected to be received by the department or independent agency, and demonstrate the extent to which objectives have been met. Under Sec. 507 the Department of Educational and Cultural Services "shall be reviewed by the Legislature no later than June 30, 1988."

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals:

The Commissioner of Educational and Cultural Services shall be appointed by the Governor (Title 20, Sec. 1-a; See II-A-3a *supra*). The governor also appoints the state board (Title 20, Sec. 51; See II-A-2a, *supra*), and appoints citizen members of the post-secondary education commission (Title 20, Sec. 71; see II-B-2, *supra*).

B. Under Title 5, Sec. 1666, the governor, with the assistance of the state budget officer, shall review the budget estimates, altering, revising, increasing or decreasing the items of the budget. Such review shall cover all budgets. Under Title 5, Sec. 1664, the budget document shall embrace complete drafts or summaries of budget bills and the legislative measures required to give legal sanction to the financial plan when adopted by the legislature. The governor is required to transmit the complete budget proposed to the legislature before the close of the second week of each regular legislative session (Title 5, Sec. 1666).

MARYLAND

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Under Art. VIII, Sec. 1 "The General Assembly, at its First Session after the adoption of this Constitution, shall by law establish throughout the State a thorough and efficient system of free public schools; and shall provide by taxation, or otherwise, for their maintenance."

2. Governance

3. Powers/duties of the state: "The School Fund of the state shall be kept inviolate, and appropriated only to the purposes of education."

B. Higher Education

1. General

2. Governance

3. Powers/duties of the state

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

a. Structure: Under Sec. 2-101 "There is a State Department of Education, established as a principal department of the state government." Under Sec. 2-202, the state board consists of nine members appointed by the Governor, for a five year term, with the advice and consent of the Senate. Sec. 2-203 permits the governor to remove a member of the state board for immorality, misconduct in office, incompetency, or willful neglect of duty.

b. Powers/duties: Sec. 2-205. The state board shall determine the elementary and secondary educational policies of the state, and it shall adopt rules and regulations for the administration of the public schools. The board may institute legal proceedings to enforce the bylaws, rules and regulations adopted by the board, shall exercise "general control and supervision over the public schools" and advise and consult with local boards, staff and interested citizens. The board shall seek in every way to direct and develop public sentiment in support of public education. The state board shall send the Governor an annual state public school budget and shall submit an annual report to the Governor on all operations of the department. With the advice and consent of the superintendent, the board is to recommend legislation to the governor and the general assembly.

3. Chief State School Officer

a. Structure: Under Sec. 2-301, There is a State Superintendent of Schools in the Department. Under Sec. 2-302 the State Superintendent shall be appointed by the State Board for a term of 4 years.

b. Powers/duties: Sec. 2-303. The state superintendent shall enforce the provisions of the bylaws, rules and regulations of the state board, and may require the state comptroller to withhold any state appropriations for local violations. He/she shall carry out the educational policies of the board and call and conduct conferences of county boards and professional personnel of the county school systems on the condition, needs and improvement of the schools. The state superintendent shall examine the expenditures, business methods, and accounts of each county board.

4. Department of Public Instruction

a. Structure: The "State Department of Education" is created as a principal department of state government in Sec. 2-101. The state board is head of the department (Sec. 2-102) and the superintendent the responsible administrator (Sec.2-103).

b. Powers/duties: The powers and duties of the department are discussed concurrently with those of the board and the superintendent. See Sec. 2-205, and Sec. 2-301 through 2-303; II-A-2 and II-A-3, supra.

B. Higher Education

1. General

2. Board/Agency

   a. Structure: Under 12-101, "There is a State Board for Higher Education." It consists of 11 members appointed by the governor with the advice and consent of the Senate. Each member serves for a term of five years. Under Sec. 16-101 there is also a state Board for Community Colleges composed of eight members appointed by the governor with the advice and consent of the senate, for terms of six years (excepting one student member).

   b. Powers/duties: Sec. 12-104 empowers the board to appoint a commissioner of higher education and additional staff as needed. Under Sec. 12-105, the board shall coordinate the overall growth and development of postsecondary education in the state. It shall consult with each agency and institution that is affected directly by its actions and recommendations before taking final action. The board shall administer State funds for private higher education institutions. Under Sec. 12-107 the state board shall review the operating budget for higher education. Under 12-108 it is to review proposals for capital projects and improvements proposed by the public institutions of higher education in the state and by private institutions of higher education seeking state funds for capital projects and improvement.

      The powers and duties of the state board for community colleges include the statewide responsibility for the community colleges. The board shall provide grants in aid for the planning of new community colleges and new programs in existing community colleges. The Board shall assist the State Board for Higher Education in performing its duties as they relate to community colleges. The board shall recommend, review and advise on any proposal for the establishment of a new community college.

      The Board shall coordinate relationships between the community colleges, the state and county public school system, and the private high schools.

III. Provisions for Legislative Oversight Affecting Education

A. Joint Standing Committee on Administrative, Executive and Legislative Review.

Art. 40, Sec. 40A creates the "Joint Standing Committee on Administrative and Executive Review." It consists of five members each from the house and senate. The committee may inquire into the failure of any officer or employee of the legislative, executive, or judicial branches of the State government to comply with the statutory or constitutional law of the state. It may review the operations and controls of any such department, board, commission or other agency making recommendations in the discretion of the committee for improvements in these operations and controls.

B. Joint Budget and Audit Committee

There shall be twenty members of the committee (Art. 40, Sec. 54). The membership shall be divided equally between members of the two houses who are members of the respective fiscal committees (Art. 40, Sec. 55). It shall review those federally funded projects, programs, grants, contracts or reimbursements received by the state and which will require subsequent general fund appropriations in future fiscal years. The committee shall give detailed and systematic attention and study to all the functions of budget analysis and review, capital budget study, fiscal policy, fiscal research, legislative post-audit, departmental operation and efficiency within the state government (Art. 40, Sec. 56).

C. Department of Fiscal Services

A Department of Fiscal Services is created under Art. 40, Sec. 57. Within the department are the divisions of Budget Review and Fiscal Research. The department is headed by a Director, appointed by the speaker and the president, who exercises general oversight over the work of the divisions.

1. Division of Budget Review

It shall give intensive study and review to the state budget, during all stages of its proposal and consideration; and the division shall continuously analyze, evaluate and test the budgetary requests and appropriations of the several departments, boards, bureaus, commissions, or other agencies which are included in or considered in relation to the budget (Art. 40 , Sec. 60).

2. Division of Fiscal Research

The division is responsible for non-budgetary fiscal research into the taxes, finances and fiscal problems and matters affecting this state. It shall collect, tabulate, and publish comprehensive data on the taxable basis, revenue yield, and expenditures of each incorporated town and city, special tax area, and county in the state and conduct continuing study of state-local fiscal relationships and the relationships of the state with its various departments, commissions, boards, institutions, divisions and units. It shall also make studies of the operation, administration, personnel and physical plants of the same (Art. 40, Sec. 61).

IV. Gubernatorial Provisions Affecting Education

Appointments/Approvals: Sec. 2-202. The Governor appoints nine members of the state board of education (Sec. II-A-2a _supra_). The Governor appoints 11 members of the state board for higher education (Sec. 12-102, Sec. II-B-2a, _supra_).

B. Budget: Constitution: Art. III Sec. 52. On the third Wednesday in January in each year, the Governor shall submit to the general assembly a budget for the next ensuing fiscal year. Each budget shall contain a complete plan of proposed expenditures and estimated revenues for said fiscal year and shall show the estimated surplus or deficit of revenues at the end of the preceding fiscal year. Accompanying each budget shall be a statement showing (a) the revenues and expenditures for the preceding fiscal year, (b) the current assets, liabilities, reserves and surplus of the state's financial condition as of the beginning and end of the preceding fiscal year; any explanation the Governor may desire to make as to the important features of the budget and any suggestions as to methods for reduction or increase of the State's revenue.

MASSACHUSETTS

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Chapter V, Sec. II "Wisdom and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of people, it shall be the duty of legislatures and magistrates, in all future periods of this commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools and grammar schools in the towns...for the promotion of agriculture, arts, sciences...to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality honesty and punctuality in their dealings; sincerity, good humor, and all social affections, and generous sentiments among the people."

2. General

3. Powers/duties of the state

B. Higher Education

1. General: See Chapter V, Sec. II, supra.

2. Governance: (Chapter V, Sec. 1, Art. 1 establishes Harvard College by law; Art. III establishes rights of governance to other colleges already established and to permit the legislature to make further provisions as they see fit.)

3. Powers/duties: (Chapter V, Sec. 1, Art. II provides that all gifts and grants to Harvard College be "forever confirmed unto the president and follows....")

II. Establishment Provisions

A. Lower Education

1. General

2. Board

a. Structure: Chapter 15, Sec. 1E establishes "in the department a board of education" consisting of three members ex-officio (chair of the student advisory committee, chancellor of the board of higher education and director of research of the advisory council on education; the latter two without vote) and eleven citizens appointed by the Governor for five years.

b. Power/duties: Under Chapter 15, Sec. 1C the purposes of the board of education shall be "to support, serve and plan general education in the public schools, and supervise the administration of vocational education programs by every agency in the commonwealth...." The board shall further provide a common center for the development, evaluation, and adaptation of educational innovations for the public schools (experimental schools) and provide centralized, statewide long-range planning for the public schools. The board may provide such necessary services to local public schools as are beyond their capacity to support separately. The board shall develop plans for education to meet state needs, and is the approving authority for federal programs to be undertaken in the commonwealth. It approves standards for school personnel, establishes maximum pupil-teacher ratios and evaluates the school aid formula. See Ch. 15, Sec. 1 generally, esp. Sec. 1F regarding vocational education.

3. Chief State School Officer

   a. Structure: Chapter 15, Sec. 1F provides that "the board of education shall by a two-thirds vote of all its members appoint a commissioner of education." The commissioner is chief executive officer and secretary to the board.

   b. Powers/duties: Under Chapter 69, Sec. 1, "The commissioner of education shall have supervision of all educational work supported in whole or in part by the commonwealth. He shall collect and distribute information as to the condition and efficiency of the public schools and other means of popular education and the best methods of instruction; (and) shall suggest improvements in the present system of public schools to the general court." See also Chapter 15, Sec. 1F, and Sec. 1G.

4. Department of Public Instruction

   a. Structure: Chapter 15, Sec. 1 "There shall be a department of education, called the department, which shall be under the supervision and control of a board of education." The department is to be divided into eight divisions each headed by an associate commissioner appointed by the board from a list of three recommendations from the commissioner (Chapter 15, Sec. 1F).

   b. Powers/duties: The powers and duties of the department are discussed and implied concurrently with those of the board and commissioner (Ch. 69, Sec. 1 and Ch. 15, esp. 1F & 1G; Sec. II-A-2 and II-A-3, supra).

5. Secretary of Education

Chapter 6A, Sec. 2 creates an executive office of "educational affairs," to be headed by a secretary (Sec. 3) appointed by the governor. The secretary is to "conduct comprehensive planning... and coordinate the programs and activities of the state agencies (under his/her office)." The secretary, as an officer of the governor, is to conduct studies of agency operations in terms of organization, procedures, and practices and as a means to promote "economy efficiency, and avoiding useless labor and expenses...." The duty of the secretary is also "to review and act upon budgetary and other financial matters...."

B. Higher Education

1. General

2. Board/Agency

a. Structure: Chapter 15, Sec. 1A provides that the board consist of a member of the board of trustees of the University of Massachusetts selected by a majority vote of all the members of said board, a member of the board of trustees of state colleges, a member of the board of regional community colleges, a member of the board of Southeastern Massachusetts University, and a member of a board of the University of Lowell each selected in the same manner, and each member to serve for a term of one year. Seven persons are to be appointed by the Governor (one from an independent institution and one from the AFL-CIO) for a term of five years.

3. Advisory Council

Chapter 15, Sec. 1H provides for an "advisory council on education" to consist of the chancellor, the commissioner (each non-voting) and nine persons appointed by the Governor (one from AFL-GIO). The purpose of the council is to recommend policies on all public education, to plan and evaluate programs and systems, and to recommend policies that facilitate "coordination, effectiveness, and efficiency."

III. Provisions for Legislative Oversight Affecting Education

A. Legislative Research

Chapter 3, Sec. 56 et. seq. establishes a "legislative research council" consisting of four members of the senate and eight members of the house for purposes of oversight of the legislative research bureau. The purpose of the bureau is to conduct investigations and studies into any matter desired by the legislature, both during and between legislative sessions.

B. Legislative Post Audit and Oversight Bureau

Chapter 3, Sec. 63 creates a "Legislative Post Audit and Oversight Bureau" serving under the direction of the joint committee on post audit and oversight of the general court (general assembly). The committee, through the bureau, is to "oversee the development and implementation of a legislative auditing program...with special emphasis on performance auditing (defined as evaluation of efficiency of operations, effectiveness of programs and faithfulness of administrative compliance). See further Chapter 3, Sec. 64-65.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints the secretary of educational affairs (Ch. 6A, Sec. 2; see II-A-5, _supra_), and eleven members of the board of education (Ch. 15, Sec. 1E; see II-B-2a, _supra_) and nine persons to the advisory council on education (Ch. 15, Sec. 1H; see II-B-3 _supra_).

B. Budget: The governor is to "recommend to the general court a budget which shall contain a statement of all proposed expenditures...(and revenues) " Constitution, Amend. 63, Part 2. Budgets are developed by executive staff to go to the appropriate secretary (Ch. 29, Sec. 4). Details of the budget to be submitted are outlined in Ch. 29, Sec. 6, which include a statement explaining the governor's decisions to increase, decrease, or delete appropriations to any state entity.

MICHIGAN

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Constitution, Art. 8, Sec. 1 "Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools, and the means of education shall forever be encouraged." Sec. 2 further provides that "the legislature shall maintain and support a system of free public, elementary, and secondary schools...." Discrimination of any type is forbidden. This section also forbids the support of private, denominational, or other non-public school with public monies (other than transportation).

2. Governance: Art. 8, Sec. 3 provides for a "state board of education," consisting of eight members to be nominated by party conventions, and elected at large for eight years. The board is to appoint a "superintendent of public instruction" who shall be the "principal executive officer of a state department of education."

3. Powers/duties of the state: See Art. 8, Sec. 1-3, supra. The state board is charged(Sec. 3) with "leadership and general supervision" of public (including adult but not baccalaureate institutions) education. It serves on the planning and coordinating agency for all education (including higher education).

B. Higher Education

1. General: (See Art. 8, Sec. 1, supra). Art. 8, Sec. 4 mandates the legislature to "appropriate moneys" to maintain several named universities as well as other higher education institutions named by law. Sec. 3 makes it clear that the provisions of that section (supra) do not limit the power of the boards of the several institutions. Sec. 5 expressly provides constitutional status for the University of Michigan, Michigan State and Wayne State and Sec. 6 provides governor appointed individual boards of control for other higher education institutions. Sec. 7 creates a "state board for public community colleges" which is an advisory board to the state board of education. The community college board is made of eight members appointed for eight year terms by the state board.

2. Governance: See Art. 8, Sec. 3-7, supra.

3. Powers/duties of the state: See Art. 8, Sec. 3-7, supra. The community college advisory board is to advise concerning the supervision and planning for such colleges and makes requests for annual appropriations for their support.

STATUTORY PROVISIONS

II. Establishment Provisions

   A. Lower Education

      1. General

      2. Board

         a. Structure: A "State Board of Education" is provided for in Art. 8 of the constitution (supra) created in 16.401, and reaffirmed by statute 388.1001.

         b. Powers/duties: The powers of the board are extended by 388.1009 which empowers it to conduct research studies relating to the public schools, and 388.1010 empowers the board to determine criteria for hiring of school personnel and overseeing other aspects of the public education system.

      3. Chief State School Officer

         a. Structure: Art. 8, Sec. 3 of the Constitution (supra) provides for a superintendent and 388.1013 (supra) provides for his appointment; see also 16.405 for similar provision.

         b. Powers/duties: 340.251 gives the superintendent "general supervision of general instruction in all public schools" including designated institutions of higher education (including the University of Michigan and Michigan State). Supervisory duties are enumerated in 340.252 as is the duty to report to the governor and the legislature concerning the conditions and plans for education.

      4. Department of Public Instruction

         A state department of education is provided for in Art. 8, Sec. 3 of the Constitution, supra, and created in 16.400; see also 16.402 and 16.403. The activities of the department are implied but not stated in 388.1001 et. seq. and 340.251 et. seq. dealing with the state board and the superintendent.

B. Higher Education

1. General

2. Board/Agency

a. Structure: Art. 8, Sec. 4 (supra) establishes the structure for the governance of higher education with planning and coordinating functions reserved for the state board of education (Sec. 3). Art. 8, Sec. 7, which provides for a community college board, is reaffirmed in 390.911.

b. Powers/duties: Art. 8, Sec. 7, supra, is reaffirmed by 390.915.

III. Provisions for Legislative Oversight Affecting Education

A. Legislative Audit Commission

Article 4, Sec. 37 of the Constitution provides for a joint committee on (administrative) rules. In addition, two sections of the Michigan code, 4.702 and 4.721, speak to the establishment of the legislative audit commission under the legislative services bureau. It is made up of ten members, five from each house appointed "in the same manner as standing committees." The commission is charged with receiving and reviewing reports and making recommendations regarding state finances and may "initiate and supervise special studies and make investigations of governmental organization, agencies, and operations...." The audit commission is required to hire its own staff, may enlist the aid of existing state agencies, and may use "consultants or other special staffs." It must report to each member of the legislature at least once each year.

B. Joint Committee on Administrative Rules

Three members of each house are appointed to the committee on administrative rules for a two year term (24.78f). The committee is to hear rules referred to it and, if authorized by concurrent resolution, may suspend any rule or regulation of a state agency promulgated between legislative sessions.

C. Other Acts Concerning Administrative Procedure

Michigan Law 24.78c further provides that any legislative committee to which a rule has been referred, "or any member of the legislature," upon finding a rule violative of legislative intent may introduce a concurrent resolution to effect a change or revocation in the rule. Furthermore, under the provisions of 24.71b, "the legislature reserves the right to approve, alter, suspend or abrogate any rule...." 24.71a and 24.102 require public notice prior to the adoption, amendment, or repeal of any rule.

IV. Gubernatorial Provisions Affecting Education

A. Appointment/Approvals: The governor fills unexpected vacancies on the state board of education (Art. 8, Sec. 3) and on designated higher education governing boards (Sec. 5) but makes no full-term appointments to statewide boards.

B. Budget: Under Art. 5, Sec. 17 of the constitution, the governor is required to submit a budget to the legislature which details the proposed expenditures and estimated revenues "for all operating funds" of the state.

C. Other: The governor is the chairman of the "State Administrative Board" created by 17.1. This board, made up of principal executive officers, including the state superintendent of public instruction, exercises "general supervisory control over the functions and activities of all administrative departments, boards, commissioners, and officers of the state...."

MINNESOTA

CONSTITUTIONAL REQUIREMENTS

I. Establishment of Education

A. Lower Education

1. General: Art. XIII, Sec. 1. "The stability of a republican form of government depending mainly upon the intelligence of the people, it is the duty of the legislature to establish a general and uniform system of public schools. The legislature shall make such provisions by taxation or otherwise as will secure a thorough and efficient system of public schools throughout the state."

2. Governance

3. Powers/duties of the state: See Art. XIII, Sec. 1, supra.

B. Higher Education

1. General

2. Governance

3. Powers/duties: Art. XIII, Sec. 3. "All the rights, immunities, franchises and endowments heretofore granted or conferred upon the University of Minnesota are perpetuated unto the University."

STATUTORY REQUIREMENTS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

a. Structure: A "State Board of Education," consisting of nine members appointed by the governor with the advice and consent of the Senate is established in Sec. 121.02.

b. Powers/duties: The control of the state department of education and the supervision of the public school system, junior colleges and public educational agencies resides in the state board. They prescribe the duties of the chief state school officer, make policy, adopt rules and regulations, and have exclusive authority in matters of certification. The board may accept and spend federal appropriations. (Sec. 121.11). They also prepare a budget for the governor (121.14) and prepare an annual report to the governor and the legislature on the status of education (Sec. 121.13). See also 3.927 on encouragement of innovative programs.

3. Chief State School Officer

a. Structure: Sec. 121.16. The "State Commissioner of Education" is appointed by the state board with the approval of the governor. The term of office shall be for six years.

b. Powers/duties: Sec. 121.16. He/she is the chief executive officer of the state board of education, and shall perform such duties as the law and the rules of the state board may provide and be held responsible for the efficient administration and discipline of the various offices and divisions in the organization of the department. The commissioner is required to make recommendations to the state board which shall facilitate all of the work of the state board, and shall be charged with the execution of powers and duties which the state board may prescribe, from time to time, to promote public education in the state and to safeguard the finances.

4. Department of Public Instruction

a. Structure: A state department of education is created and discussed with the structure of the state board, Sec. 121.02; Sec. II-A-2a, _supra_.

b. Powers/duties: Discussed with state board, 121.11 _et. seq._ and implied in duties of commission, 121.16; Sec. II-A-3, _supra_.

B. Higher Education

1. General

2. Board/Agency

a. Structure: Sec. 136A.01 creates "A coordinating board for higher education, to be known as the Minnesota higher education coordinating board...." It is to consist of eight citizen members, one from each congressional district and three at-large citizen members. All members are appointed by the governor with the advice and consent of the senate (Sec. 136A.02). The terms are for four years (Sec. 15.0575).

b. Powers/duties: The board may appoint a director and staff (Sec. 136A.03) and shall study and analyze all aspects of higher education and develop plans for future needs (Sec. 136A.04). The board must engage in long-range planning, make recommendations as to priority proposals and programs, review budget requests in light of long-term needs and resources and assess post-secondary institutions in terms of their accomplishments and consisting with legislative intent, it must meet with other statewide educational boards (Sec. 136A.041), apply for, receive and administer federal funds (Sec. 136A.06) and report to the governor in time for the governor to include budget recommendations (Sec. 136A.07). The jurisdiction of the board is inclusive of "the University of Minnesota, the state universities, the community colleges...vocational-technical institutes...and private institutions" (Sec. 136A.04).

3. Council on Quality Education

A "Council on Quality Education" is established consisting of 17 persons, one person from each of eight interest groups and lay boards (elementary-secondary and higher education) and nine non-educators appointed by the governor. The purpose of the Council "is to encourage, promote, aid, and perform research and development for quality education in Minnesota elementary and secondary schools, to evaluate the results of significant innovative programs and to disseminate information about these programs throughout the state". A venture fund is established for grants and loans for research and development in a wide variety of education curricula, management and evaluation programs. See also Sec. 3.9271 on the encouragement of early childhood and family education programs.

III. Provisions for Legislative Oversight Affecting Education

A. Legislative Audit Commission

Sec. 3.97, creates a "Legislative Audit Commission," which consists of members from both the house and the senate. A legislative auditor serves as executive secretary of the commission. The legislative auditor (Sec. 3.971) shall perform financial audits and make a complete examination and verification of all accounts, records, etc. of all state departments, boards, commissions, and other state agencies at least once each year. He shall see that all provisions of law respecting the appropriate and economic use of public funds are complied with by all departments and agencies of the state government. The auditor also performs program evaluations, including an evaluation of goals and objectives... program results and effectiveness...alternative means...and efficiency."

B. Legislative Commission on Rules

Under Sec. 3.965 a "Legislative Commission for Review of Administrative Rules", is established consisting of five members each from the house and senate. It is to promote adequate and proper rules and an understanding of the rules by the public. The commission may hold hearings and suspend rules until the next legislative session when such rule is placed before the legislature.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints the members of the board of education (Sec. 121.02; See II-A-2a, supra), approves the state commission of education appointment by the board (Sec. 121.16; See II-A-3, supra), and appoints the nine members of the state university board (Sec. 136.12; see II-B-2a, supra).

B. Budget: Sec. 16A.11 requires that the Governor submit a budget to the state legislature. The same section goes on to state that the budget must "be supported by explanatory...statements, classifying the expenditures therein by organization units, objects, and funds...." It further stipulates that "the budget shall embrace the detailed budget estimates both of expenditures and revenues." Sec. 16A.10 requires that each agency budget be submitted to the legislature prior to the regular session.

MISSISSIPPI

CONSTITUTIONAL REQUIREMENTS

I. Establishment of Education

A. Lower Education

1. General: Article 8, Section 201 The legislature may, in its discretion, provide for the maintenance and establishment of free public schools for all children between the ages of six (6) and twenty-one (21) years, by taxation or otherwise, and with such grades as the legislature may prescribe.

2. Governance: Article 8, Section 203 The state board of education is the governing board for public education. It consists of the secretary of state, the attorney-general and the superintendent of public education. Article 8, Section 202 provides that a "Superintendent of Public Instruction" be elected for a four year term at the same time and in the same manner as the governor.

3. Powers/duties: The state board is obliged (Article 8, Section 203) to manage and invest funds according to the law and to perform other duties prescribed by law. The superintendent is responsible for the general supervision of the common schools and of the educational interest of the state, and shall perform such other duties and receive such compensations as shall be prescribed by law. The superintendent of public education in each county is appointed by the state board of education with the advice and consent of the senate, and serves at the pleasure of the state legislature. (Article 8, Section 204) The legislature has the sole power of establishing a free school or schools in each county of the state as they see fit. (Article 8, Section 205). On abolishment of public schools by the legislature, See Article 8, Section 213-B.

B. Higher Education

1. General: Article 8, Section 213-A. All state institutions of higher learning are under the management and control of the "Board of Trustees of state institutions of higher learning."

2. Governance: Article 8, Section 213-A The members of the board are appointed by the governor, representing each congressional district of the state and one member from each supreme court district, and two members appointed from the state at large, for a term of twelve years.

3. Powers/duties: Article 8, Section 213-A. The board shall have the power and authority to elect the heads of the various institutions of higher learning and contract with all deans, professors and other members of the teaching staff, and all administrative employees of said institutions for a term not exceeding four years; but said board shall have the power and authority to terminate any such contract at any time for malfeasance, inefficiency or contumacious conduct, but never for political reasons.

STATUTORY REQUIREMENTS

II. Establishment Provisions

A. Lower Education

1. General

2. Board/other structure

a. Governance. Title 37, Section 37-1-1 The "State Board of Education" is the governing board for public education (Reaffirms Article 8, Section 203).

b. Powers/duties: Title 37, Section 37-1-3 The state board shall adopt a course of study to be used in public schools of the state and it shall regulate all matters arising in the practical administration of the school system, not otherwise provided for. The board decides all appeals from the decisions of the county superintendents or from decisions of the state superintendent (37-1-5), and has the power to remove county superintendents from office when deemed necessary (37-1-7).

3. Chief State School Officer

a. Governance: Title 37, Section 37-3-9 "The State Superintendent of Public Education" is an elected constitutional (Article 8, Section 202) officer.

b. Powers/duties: Title 37, Section 37-3-9 He/she is the chief executive officer of the state board of education and, with the state department of education and local boards and superintendents, is responsible for the administration of the public school system (37-3-11).

4. Department of Public Instruction:

a. Governance: Title 37, Section 37-3-1 The "State Department of Education" is an agency of the state government, established by the constitution and is an inclusive title designating the state board, the state superintendent and whatever divisions and positions established to carry out the purposes of education.

b. Powers/duties: Title 37, Section 37-3-5 The state department of education is charged with the execution of all laws relating to the administrative, supervisory, and consultative services to the public schools, agricultural high schools, and junior colleges of the state of Mississippi. Subject to the direction of the state board of education as provided by law, the administration, management and control of the department is hereby rested in the state superintendent of public education, who shall be directly responsible for the rightful functioning thereof.

5. Additional Provisions

a. General

b. Board

1) Governance: Title 37, Section 37-29-11 A "Junior College Commission" is created consisting of ten members (10) as a separate governing board. The state superintendent serves as chairman. The chancellor of the university and two college presidents serve as do three junior college presidents appointed by the junior college association and three citizens appointed by the governor with advice and consent of the senate. All appointed terms are for three years.

2) Powers/duties: Title 37, Section 37-29-17 The junior college commission regulates the establishment and operation of the junior colleges in the state, makes studies of the needs of the state and communities for junior college education, especially in the field of vocational and vocation-technical education, divides the state into districts within which junior colleges may be established, sets standards for junior colleges and other requirements as deemed necessary.

B. Higher Education

1. General

2. Board/Agency

a. Governance: Title 37, Section 37-101-3 This section reconfirms the appointment and terms of trustees (see Article 8, Section 312-A), and sets requirements for membership to be at least 25 years of age and of the highest order of intelligence, character, learning, and fitness for the performance of such duties (Title 37, Section 37-101-5).

b. Powers/duties: Title 37, Section 37-101-15. This statute reconfirms powers granted in the constitution, adding the powers to exercise control of all records, books, papers, equipment, and supplies, and land, buildings, and other real and personal property belonging to or assigned to the use and benefit of the board of trustees formerly supervising and controlling the institution of higher learning.

III. Provisions Affecting Legislature Oversight of Education

Joint Legislative Committee on Performance Evaluation and Expenditure Review.

Title 3, Section 5-3-51 Creates a committee of the senate and the house of representatives to be known as the "Joint Legislative Committee on Performance Evaluation and Expenditure Review," for the purpose of conducting performance evaluations, investigations and examinations of expenditures and all records relating thereto of any agency at any time as the committee deems necessary. The committee shall be composed of five (5) members from the senate and five (5) members from the house of representatives (Section 5-3-55).

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints the members of the board of trustees for higher learning (Article 8, Section 213-A; Section I-B-2, supra and some members of the junior college board Sec. 37-29-11; See II-B-5, supra).

B. Budget: Title 17, Section 27-103-43. On or before December 15 proceeding each regular session of the legislature, the governor shall submit to the members of the legislature or the members elect, as the case may be, and to the executive head of each state agency, his recommendations regarding the budget as prepared by the commission of budget and accounting, together with any recommendations for changes which he deems desirable.

MISSOURI

CONSTITUTIONAL REQUIREMENTS

I. Establishment of Education

A. Lower Education

1. General: Art. 9, Sec. 1(a). "A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the general assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this state within ages not in excess of twenty-one years as prescribe by law."

2. Governance: Art. 9, Sec. 2(a). "The supervision of instruction in the public schools shall be vested in a state board of education, consisting of eight lay members appointed by the governor, by and with the advice and consent of the senate." The term of office of each member shall be eight years.

3. Powers/duties: Art. 9, Sec. 2(b). The board shall select and appoint a commissioner of education as its chief administrative officer. The commissioner shall be a citizen and resident of the state. The board shall prescribe duties of the commissioner, fix his compensation, and upon his recommendation shall appoint the professional staff and fix their compensation.

B. Higher Education

1. General

2. Governance: Art. 4, Sec. 51 establishes a "department of higher education" with a "coordinating Board for Higher Education" which shall consist of nine members appointed by the Governor with the advice and consent of the Senate.

3. Powers/duties: Art. 4, Sec. 52 A state coordinating board replaces the commission on higher education with all its powers and duties.

STATUTORY REQUIREMENTS

II. Establishment Provisions

A. Lower Education

1. General

2. Board/Other Structure

a. Governance: Sec. 161.022 The State Board of Education is the governing board for public education consisting of eight lay members appointed by the Governor by and with the advice and consent of the Senate, after an open committee hearing. The term of office of each member is eight years. At the expiration of the term of office of each member, the governor, by and with the advice and consent of the Senate, shall appoint a successor.

b. Powers/duties: Sec. 161.092 The control of the State Department of Education and the supervision of public education resides in the State Board. They prescribe the duties of the commissioner of education, make policies, adopt rules and regulations, and carry out the educational policies of the state relating to public schools that are provided by law and supervise instruction in the public schools. The board is further to direct the investment of all monies received by the state, classify the public schools of the state, and prepare an annual report to the governor for transmission to the general assembly. The board also has exclusive authority in matters of certification of teachers.

3. Chief State School Officer

a. Structure: Sec. 161.112 The State Board of Education shall appoint a commissioner of education as its chief administrative officer. The commisssioner shall be a citizen who has resided in the state for at least one year immediately preceding his appointment and who possesses educational attainment and breadth of experience in the administration of public education. The board shall prescribe duties of the commissioner and fix his compensation, and may remove him at its discretion.

b. Powers/duties: Sec. 161.122 The commissioner of education shall supervise the division of public schools. Either in person or by deputy, he shall confer with and advise county and school district officers, teachers, and patrons of the public schools on all matters pertaining to the school law, and seek in every way to elevate the standards and efficiency of the instructions given in the public schools of the state.

4. Department of Public Instruction

Appendix Sec. 5, of the Executive Reorganization creates a "department of elementary and secondary education" headed by a state board of education. The state board shall appoint a commissioner of education as the chief administrative officer of the department. The powers and duties of the department of elementary and secondary education are discussed concurrently with those of the board and superintendent, Sec. 161.122, II-B-3 _supra_, and II-B-2 _supra_.

B. Higher Education

1. General

2. Board/Agency

   a. Structure: Appendix "B" Sec. 6 of the Executive Reorganization creates a "department of higher education" and the division of higher education of the department of education is abolished. The coordinating board shall consist of nine members appointed by the governor with the advice and consent of the senate. The other qualifications, terms and compensation of the coordinating board shall be the same as provided by law for the creators of the University of Missouri.

   b. Powers/duties: Appendix "B", Sec. 6 The coordinating board replaces the commission on higher education and all its powers and duties are transferred to the board. In addition to all other powers and duties, the coordinating board is responsible for the approval of new degree programs, establishing admission guidelines, policies and procedures, and the collection of information and developing comparable data for all institutions of higher education in the state.

III. Provisions Affecting Legislative Oversight of Education

Sec. 21.470 creates a "committee on State Fiscal Affairs" which consists of seven members of the senate and seven of the house, and the president pro-tem of the senate and the speaker of the house. The duties are to provide fiscal research and analysis services for the appropriation and ways and means committees of the two houses of the general assembly, the committee on legislative research, interim committees and commissions and members of the general assembly on matters relating to revenue, taxation, appropriations and the fiscal and financial affairs of the state.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals The governor appoints the eight members to the board of Education (Art. 9, Sec. 2a, see I-A-2; also Sec. 161.022; see II-A-2, supra). The governor also appoints the coordinating Board for Higher Education consisting of nine members (Art. 4, Sec. 51, see I-B-2; also Appendix B, Sec. 6 of the Executive Reorganization Act, see II-B-2 supra).

B. Budget: Sec. 33.250 requires the governor to develop recommendations on appropriations and subsequently to hold a public hearing on the budget. The governor's budget is then to be submitted to the legislature (Sec. 33.280). The latter requirement is also mandated by the Constitution, Art. IV, Sec. 24: "The governor shall...submit to the general assembly a budget (containing)...an itemized plan of proposed expenditures of the state and all its agencies...."

MONTANA

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Under Art. X, Sec. 1, it is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state.

2. Governance: Under Art. X, Sec. 9, there is a state board of education composed of the board of regents of higher education and the board of public education. The board consists of seven members appointed by the governor and confirmed by the senate, to overlapping terms, as provided by law. The governor and superintendent of public instruction are ex officio non-voting members of the board.

3 Powers/duties of the state: The board is responsible for long-range planning, and for coordinating and evaluating policies and programs for the state's educational systems. It shall submit unified budget requests and exercise general supervision over the public school system.

B. Higher Education

1. General: See Art. X, Sec. 1, supra.

2. Governance: See Art. X, Sec. 9, supra. Also: the government and control of the Montana university system is vested in a board of regents of higher education which shall have full power, responsibility, and authority to supervise, coordinate, manage and control the Montana university system.

3. Powers/duties: See Art. X, Sec. 9, supra.

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

   a. Structure: Under 20-2-101, the board of public education and the board of regents meeting together as the state board of education shall be responsible for long-range planning. Under Sec. 20-2-111, the board of public education and the board of regents may each select a chairman from among their appointed members. The professional assistant shall serve as secretary to the board of public education, and the commissioner of higher education serves as secretary to the board of regents. A majority of the appointed board members constitutes a quorum for the transaction of business. The professional assistant shall serve as a liaison between the board of public education and the superintendent of public instruction and shall carry out other such duties as assigned by the board of public education.

   b. Powers/duties: Under 20-2-101, the board shall coordinate and evaluate policies and programs for the public educational systems of the state. The state board of education shall review and unify the budget requests of educational entities assigned by law to the board of public education, the board of regents or the state board of education. The board of education shall effect an orderly and uniform system for teacher certification, and shall consider the suspension or revocation of teacher certificates and appeals. It shall approve or disapprove a reduction of the numbers of hours in a district's school day, adopt standards of accreditation, and shall adopt the policies prescribed by and in accordance with the provisions of the act dealing with vocational education.

3. Chief State School Officer

   a. Structure: Under 20-3-101, a superintendent of public instruction for the state of Montana shall be elected by the qualified electors of the state at the general election preceding the expiration of the term of office of the incumbent. He shall hold office for a term of 4 years.

   b. Powers/duties: The superintendent, under 20-3-105 and 20-3-106, has the general supervision of the public schools and districts of the state, and he shall perform the following duties or acts in implementing and enforcing the provisions of this title: The Superintendent can issue, renew, or deny teacher certification, he shall serve on the teachers retirement board, approve or disapprove the orders of a high school boundary commission, he shall supervise the school financial administration provisions, recommend standards of accredition for all schools, shall collect and maintain a file of curriculum guides and administer and perform the duties as the executive officer of the board of public education for vocational education. He shall authorize the use of federal moneys for the support of an interlocal cooperative agreement among a total of 48 powers and duties enumerated.

4. Department of Public Instruction

20-3-103 and 20-3-104 enumerate the powers of the superintendent to hire a staff. Powers and duties are subsumed under 20-2-101 (see II-A-2b supra) and 20-3-105 and 20-3-106 (see II-A-3b supra).

B. Higher Education

1. General

2. Board/Agency

a. Structure: See 20-2-101, supra.

b. Powers/duties: Under 20-2-131, the board of regents shall prescribe the duties of the commissioner of higher education and shall set his compensation. Under 20-25-301, the board of regents of higher education shall serve as regents of the Montana university system. They shall "have general control and supervision of the units of the Montana university system," appoint a president and faculty for each institution, prevent unnecessary course duplication, control receipts and disbursements of institutions, and a variety of other functions.

III. Provisions for Legislative Oversight Affecting Education

A. Administrative Code Committee

Under 2-4-101, the jurisdiction of the Administrative code committee does not apply to the board of regents and the Montana university system. Under 2-4-402, the committee shall review all proposed rules filed with the secretary of state. It must prepare written recommendations for the adoption, amendment, or rejection of a rule. Under 2-4-403, if the legislature is not in session, the committee may poll all members of the legislature by mail to determine whether a proposed rule is consistent with the intent of the legislature. Should 20 or more legislators object to any rule, the committee shall poll the members of the legislature. Under 2-4-103, each agency shall make available for public inspection all rules and other written statements of policy or interpretations formulated, adopted, or used by the agency in the discharge of its functions. Under 2-4-201, each governmental agency shall adopt as a rule a description of its organization stating the general course and methods of operations.

B. Legislative Review of Rules

Under 2-4-412, the Legislature may, by joint resolution, repeal any rule in the Administrative Rules of Montana (ARM). If a rule is repealed, the legislature shall in the joint resolution state its objections to the repealed rule. (2) The legislature may also, by joint resolution, direct a change to be made in any rule in ARM.

C. Periodic Agency Evaluation

Under 2-8-101, "The legislature finds state government actions have produced a substantial increase in numbers of agencies, growth of programs and proliferation of rules... It is the intent of the legislature, by establishing a system of periodic evaluation of the need for and the performance of agencies preparatory to termination, modification or reestablishment, to be in a better position to insure that...no agency program or rule exists which is not responsive to those needs... There exists a systematic legislative review of the need for and public benefits derived from a program or function which licenses or otherwise regulates a profession...."

D. Under 5-12-201, there is created a legislative finance committee which is a permanent joint committee of the legislature. The committee may organize and adopt rules to govern its proceedings, employ and set the salary of the legislative fiscal analyst, and exercise the investigatory powers of a standing committee.

Under 5-12-301, there is created an office of legislative fiscal analyst. Under 5-12-302, this person shall provide for fiscal analysis of state government and accumulate, compile, analyze and furnish such information bearing upon the financial matters of the state that is relevant to issues of policy and questions of statewide importance, including but not limited to investigation and study of possibilities of effecting economy and efficiency in state government.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints seven members to the state board of education (Art. X, Sec. 9 of the constitution) which constitutes the board for both higher and lower education (see I-A-2, *supra*).

B. Budget. Under 17-7-122, "the governor shall, following the receipt of the preliminary budget from the budget director, have prepared a budget for the ensuing biennium and shall submit said budget to each member of the legislature at the time of the convening of the legislature." Under 17-7-123, the budget shall consist of a consolidated budget summary setting forth the figures of the budget to show a balance between the total proposed disbursements and the total anticipated receipts, a statement of departmental goals and objectives and detailed recommendations for the state long-range building program. Appropriation measures shall be detailed by program, fund, and accounting entity.

NEBRASKA

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Under Art. VII Sec. 1 "The legislature shall provide for the free instruction in the common schools of this state of all persons between the ages of five and twenty-one years. The legislature may provide for the education of other persons in educational institutions owned and controlled by the state or a political subdivision thereof."

2. Governance: Under Art. VII Sec. 2 "The state department of Education shall be comprised of a State Board of Education and a Commissioner of Education. The State Department of Education shall have general supervision and administration of the school system of the state and of such other activities as the legislature may direct." Under Art. VII Sec. 3, the State Board of Education shall be composed of eight members who shall be elected from eight districts. Their term of office shall be four years each.

3. Powers/duties of the state: Under Art. VII Sec. 4, "the State Board of Education shall appoint and fix the compensation of the Commissioner of Education, who shall be the executive officer of the State Board, Board of Education and the administrative head of the State Department of Education, and who shall have such powers and duties as the Legislature may direct. The Board shall appoint all employees of the State Department of Education on the recommendation of the Commissioner of Education."

B. Higher Education

1. General: See Art. VII Sec. 1, _supra_.

2. Governance: Under Art. VII Sec. 10, the government of the University of Nebraska shall be vested in a Board of Regents. Under Art. VII, Sec. 13 the government of the state colleges shall be vested in a board of seven members who shall be appointed by the Governor. (Neither of these boards, as provided in the constitution, is a statewide coordinating or governing authority; see II-B-2 and II-B-3, _post_).

3. Powers/duties: Under Art. VII Sec. 10 their duties and powers shall be prescribed by law.

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General

2. Board:

   a. Structure: Sec. 79-322 reaffirms the Constitution regarding board membership. Under Sec. 79-323, "no person shall be eligible to membership on the State Board who is actively engaged in the teaching profession; (he or she must be) a resident of the state for a period of at least three years, and a resident of the district from which elected for a period of two years immediately preceding of the election".

   b. Powers/duties: Under 70-325, the board may receive, hold, and use money and real and personal property for the benefit of the school system of the state. Under 79-321, the board shall be the "policy forming, planning and evaluating body for the state school program. Except in the appointment of a Commissioner of Education, the board shall deliberate and take action with the professional advice and counsel of the Commissioner of Education." Under 79-328, the board shall have the power to appoint the Commissioner of Education, to organize the State Department of Education and to provide supervision of the state school system. The board must submit an annual report to the Governor and the legislature covering the actions of the board, distribute reports to acquaint school district officers, teachers and patrons of the needs and conditions of the schools and to interpret its own polices, standards, rules and regulation. Under 79-329, the board shall provide for the education and approve special educational facilities and programs provided in the public schools for handicapped students and act as the state's authority for the approval of all types of veterans' educational programs. The state board of education is also the state board for vocational education (Sec. 79-330).

3. Chief State School Officer:

   a. Structure: Sec. 79-328 requires the state board to appoint a "Commissioner of Education and provides that body with power to remove the commissioner. See also Art. VII, Sec. 4; I-A-C *supra*).

   b. Powers/duties: Under 70-332, the Commissioner of Education, among other duties, shall be the executive officer of the State Board of Education, shall keep the board currently informed and advised on the operation and status of all aspects of the educational program of the state under its jurisdiction, prepare a budget for financing the activities of the board and the department, voucher the expenses of the department according to the rules, regulations prescribed by the board, be responsible for promoting the efficiency, welfare, and improvement in the school system in the state, decide disputed points of school law, and issue teaching certificates. See also 79-321 *et. seq.* and 79-333.

4. Department of Public Instruction

a. See Art. VII, Sec. 2d of the Constitution in II-A-2 and II-A-3 supra, regarding the State Department of Education. See also Sec. 79-33 (Commissioner or head of department) and Sec. 79-339 (miscellaneous duties of the department) in II-A-2 and II-A-3, supra.)

B. Higher Education

1. General

2. Board/Agency

a. Structure: Under Sec. 85-902, the Nebraska Coordinating Commission for Post-secondary Education is created. The commission shall consist of twelve members. Six members shall be appointed from the general public by the Governor with the advice and consent of the Legislature. Five members shall be representatives of post-secondary education institutions of this state, and the commissioner of Education or a member of the state Board of Education.

b. Powers/duties: Under Sec. 85-908, "The commissioner shall have the authority to select, employ and supervise a professional staff to carry out the provisions of sections 85-901 to 85-911.... The commission shall have the authority to request from any department, division, board, bureau, commission or agency of the state such assistance and data as will enable it to properly carry out is powers and duties; and establish advisory committees as may be necessary to assist the commission in the performance of its duties..." Under 85-910, the commission shall exercise exclusive general supervision of the administration and enforcement of this section and all rules and regulations adopted thereunder. It shall develop and implement a statewide information system for education in this state, and accept and administer loans, grants, and programs from the federal or state government. It shall establish close liaison with the State Board of Education and the State Department of Education. Under 85-911, "The commission shall prepare an annual report and submit it to the Governor and the legislature and the Governor...."

III. Legislative Provisions Affecting Oversight of Education

A. Legislative Council

Under 50-401, there is created a Legislative Council, which consists of all members of the legislature. It shall be the function of the legislative council to consider legislative policies between sessions of the Legislature. Under 50-402, it is the duty of the council to collect information concerning the government and general welfare of the state, to deal with important issues of public policy, to prepare a legislative program in the form of bills to study federal aid to the state and its political subdivisions and to advise the legislature of money, and/or buildings available from the federal government, to furnish and supervise through its Executive Board all services and service personnel required by the legislature, to set up subcommittees within the executive board to carry out functions such as investigations of any area which it may decide is in the public interest.

B. Fiscal Analyst

Under 50-418, the Legislative Fiscal Analyst shall be appointed by, and serve at the pleasure of, the Executive Board of the Legislative Council. He shall provide factual information and recommendations concerning the financial operations of the state government, and evaluation of the requests for appropriations contained in the executive budget, plans for legislative appropriation and control of funds, with pre-session analysis of budgetary requirements. He shall submit a report of the performance objectives and the actions taken to accomplish such objectives.

C. Performance Review and Audit Committee

Under 50-701.02, there is established the Performance Review and Audit Committee to consist of those members of the legislature who are members of the Appropriations Committee shall meet periodically with the auditor of public Accounts to review the audits performed by the audit staff, to review special requests from legislative members for special reviews, determine the means by which performance review methods can be improved so as to provide the type of information needed by the legislature.

D. Post-secondary Education Advisory Committee.

Under 50-801 there is established a Post-secondary Education Advisory Committee. Under 50-803, the Executive Board of the Legislative Council shall appoint six members of the legislature to serve, together with the chairperson of the Committee on Appropriations and the chairperson of the Committee on Education. The board shall appoint two members of the legislature from each of the congressional districts of the state. Under 50-806, the committee shall study existing laws and practices affecting any public post-secondary educational needs of the state and its political subdivisions. The committee shall redefine the roles and missions of Nebraska's institutions and system of post-secondary education.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/approvals: Under 85-902 six members of the Nebraska Coordinating Commission for Post-secondary Education shall be appointed from the general public by the governor, with the advice and consent of the legislature (see II-B-2, supra).

B. Under Art. IV, Sec. 7, the governor at the commencement of each session and at the close of his term of office must deliver to the legislature information of the condition of the state and shall recommend such measures as he shall present, a complete itemized budget of the financial requirement of all departments, institutions and agencies of the state and a budget bill to be introduced by the speaker of the legislature at the request of the Governor. No appropriations shall be made in excess of the recommendation contained in the budget request unless by three-fifths vote of the legislature, and such excess so approved shall be subject to veto by the Governor.

NEVADA

CONSTITUTIONAL REQUIREMENTS

I. Establishment Provisions

A. Lower Education

1. General: Under Art. II, Sec. 1 "The legislature shall encourage by all suitable means the promotion of intellectual, literary, scientific, mining, mechanical, agricultural, and moral improvements...."

2. Governance: Under Art. II, Sec. 1, the legislature shall provide for a superintendent of public instruction.

3. Powers/duties of the state: The legislature must provide for common schools in the state (Art. II, Sec. 2). Art II, Sec. 3 requires that lands set aside by Congress for forming a state government be set aside for the purpose of establishing education. All proceeds of sales of such lands must be held inviolate by the state, it being permitted to spend only the interest. Art. II, Sec. 5 enables the legislature to establish schools, primary to university, and Art. II, Sec. 6 mandates the legislature to make appropriations from the general fund for schools established.

B. Higher Education

1. General: See Art. II, Sec. 1; I-A-1, supra.

2. Governance: Art. II, Sec. 7 requires the legislature to provide for a "Board of Regents" and define their duties.

3. Powers/duties of the state: Art. II, Sec. 3 permits the interest on the principal of proceeds from "set-aside" lands to be used for the support of the state university. Art. II, Sec. 4 mandates the establishment of a state university and Art. II, Sec. 6 requires support of that university from general state funds.

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

a. Sturcture: A state board of education of nine lay persons is to be elected by the people for a term of four years. There is to be a single board member from each district as described by statute (Sec. 385.021).

b. Powers/duties: Under Sec. 385.110, the state board of education shall prescribe and cause to be enforced the courses of study for the public schools. Under Sec. 385.125, the board may adopt standard plans and specifications for the construction of school buildings by the boards of trustees of the various school districs, and shall advise the legislature at each regular session of any recommended legislative action to insure equality of educational opportunity for all children in the state of Nevada (Sec. 385.005).

3. Chief State School Officer

a. Structure: Under Sec. 385.150 "The superintendent of public education shall be appointed by the state board of education...The superintendent of public instruction shall hold office subject to being removed at the pleasure of the state board of education."

b. Powers/duties: Under Sec. 385-230, the superintendent of public instruction shall report to the governor biennially, on or before December 1, in the year immediately preceding a regular session of the legislature. The governor shall transmit the report to the legislature at its first regualr session thereafter. The report shall contain a statement of the pubilc school affairs in the state. The superintendent is to visit each local district at least annually, for purposes of consultation (Sec. 385.180), hold conferences for school personnel (Sec. 385.190), approve library books (see 385. 240), and suspend teachers' certificates (Sec. 385.265). Obligations of budget and finance are delegated to the deputy and associate superintendents, Sec. 385.290, et. seq.

4. Department of Public Instruction

a. Structure: Sec. 385.010 creates the "state department of education" which is inclusive of the state board of education, the state board for vocational education and the superintendent and staff.

b. Powers/duties: Discussed concurrently with board and superintendent. See 385.010 et. seq. under II-B-2 and II-B-3, supra.

B. Higher Education

1. General

2. Board/Agency

a. Structure: Under Sec. 396.040, the Board of Regents shall consist of nine members to be elected by the registered voters, from districts established for the purpose, for terms of six years.

b. Powers/duties: Under 396.020, the Board of Regents shall administer the system of universities colleges, research and public service units known as the University of Nevada System. This includes the community colleges (Sec. 385-102). The board may establish rules for its own governance of for "the government of the university" (Sec. 396.

110). It must appoint a chancellor (Sec. 396.210) and set his/her salary (Sec. 396.220), set salaries of academic staff (Sec. 396. 280), discriptive and dismiss staff (Sec. 296.311 et. seq.).

III. Provisions for Legislative Oversight Affecting Education

A. Legislative Counsel Bureau

Sec. 218.620 creates a general bureau under which is included an interim finance committee and, among others, a fiscal analysis division. The bureau may conduct such studies and investigations as directed by the legislature (Sec. 218.635). The interim finance committee, made up the house ways and means committee and the senate committee on finance, is charged generally to act when the legislature is not in session (specific duties unspecified) in Sec. 218.6822. The fiscal analysis staff of the bureau shall, among other things, make recommendations concerning efficiency of government, analyze appropriation bills and bills having fiscal impact and generally advise on matters involving finance (Sec. 218.686).

B. Fiscal Notes

Sec. 218.272 requires that fiscal notes must accompany appropriations requests. Notes must contain "a reliable estimate of the dollar amounts of effect the bill will have."

C. Regulatory Review

Under Sec. 233B.067, the "Legislative Commission," established under the Legislative Counsel Bureau and consisting of six members each from the house and senate, provides legislative oversight of administrative rules. After proper promulgation of a rule (see Sec. 223B.040 et. seq.) the rule is reviewed by the commission and returned to the agency if found "to not conform to statutory authority or carry out legislative intent". If after agency revision, the rule is still found unsatisfactory, the rule is submitted to the legislature (the appropriate standing committee). Sec. 233B.067 and Sec. 233B.068.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/approvals

B. Budget: Sec. 353.230 requires that the governor present a proposed budget to the legislature. In developing the budget to the legislature. In developing the budget, the executive is to alter, revise, increase or decrease agency or institutional requests before the governor presents the budget to the legislature.

NEW HAMPSHIRE

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Pt. 2, Art. 83 provides that "knowledge and learning, generally diffused through a community, being essential to the preservation of a free government and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country...."

2. Governance: Pt. 2, Art. 83 "...all just power possessed by the state is hereby granted to the general court to...control and regulate the acts of all such persons, associations, and officials doing business within state...."

3. Powers/duties of the state

B. Higher Education

1. General: see Pt. 2, Art. 83, _supra_.

2. Governance

3. Powers/duties

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General

2. Board:

   a. Structure: Sec. 186.1 "There shall be a department of education consisting of a state board of education of 7 members, a commissioner of education, and such other officials and employees as may be authorized." Sec. 186.2 provides that the governor and council appoint the board members for five year terms.

   b. Powers/duties: Sec. 186.5 The state board may make all rules and regulations necessary for the management of its own business and for the conduct of its officers, employees and agents, and to secure the efficient administration of the public schools and the administration of the work of Americanization, in teaching English to non-English speaking adults and in furnishing instruction in the privileges, duties and responsibilities of citizenship. Sec. 186.6 provides that the state board may also make the regulations necessary to enable the state to comply with the provisions of any law of the U.S. intended to promote vocational or other education, to establish supervisory unions of one or more school districts (Sec. 186.11), to supervise expenditures of state money to develop the public school budget (and develop educational brochures on the same), to establish certification regulations for teachers and a variety of other duties (of which 32 are specifically identified).

3. Chief State School Officer

   a. Structure: Sec. 186.9 The state board shall employ as skilled executive officer who shall have had training and experience in educational work. He shall be the chief executive officer and secretary of the board, and shall be called the commissioner of education. He shall be appointed for an indefinite term and shall be subject to removal upon the majority vote of the entire board.

   b. Powers/duties: Sec. 186.11 The commissioner of education shall supervise the organization of the school districts, and the expenditure of all moneys appropriated for public schools. He shall also prepare a budget for such expenditures. He shall also establish certification regulations, administer the school money through the local school boards in all school districts in which part of the money used to maintain standard elementary schools is provided by the state. (See II-A-a & b, supra, for further elaboration).

4. Department of Public Instruction

   The department of education is taken up synonomously with previously cited provisions. See Sec. 186.1 et seq.; See II-A-2, II-A-4.

B. Higher Education

1. General: Sec. 188-D.1 "It is the purpose of this chapter to consolidate and improve the role of the state of New Hampshire in planning for the most effective use of its resources in providing adequate post-secondary education including vocational education for its citizens and to facilitate securing for the students and and educational institutions of the state, the benefits provided by the congress in the Education Amendments of 1972 and other federal programs...."

2. Board/Agency

   a. Structure: Sec. 188-D.2 "There is hereby established a post-secondary education commission of 21 members...." Among the members shall be three college presidents and five representatives of the private 4 year colleges, members from the junior and community colleges, members of the lay public, student members, and others. The presidents serve ex-officio, the state board appoints two members, and the governor with advice and consent of various bodies, appoints others.

   b. Powers/duties: Sec. 188-D.9 "The commission is to conduct studies of post-secondary education in the state and to prepare and keep current plans designed to avoid duplication and make effective use of the state's resources in providing adequate opportunities for such education subcommittees and utilize existing agencies in the formulating of such plans...." Under Sec. 188-D. 9-a, the commission is authorized and directed to prepare plans for the provisions of educational opportunities for residents of the state in the post graduate fields. The commission is further authorized to enter into the contracts with institutions of higher education in other states for the provision of educational opportunities in such cost graduate fields as may be deemed essential and necessary to the state under the declaration of purpose of this chapter.

III. Provisions for Legislative Oversight Affecting Education

A. Advisory Budget Control Committee

Sec. 9.13-A There shall be an advisory budget control committee comprised of five members. The chairman of the house appropriations committee shall be the chairman of the advisory budget committee. The committee shall confer with the governor at such times as in the opinion of the governor such conferences are necessary, on matters dealing with the budget.

B. Fiscal Committee of the General Court

Sec. 14.30-A There is hereby established a fiscal committee of the General Court. The committee shall consist of eight members. The committee shall consult with, assist, advise, and supervise the work of the legislative budget assistant, and may investigate and consider any matter relative to the appropriations, expenditures, finances, revenues or any of the fiscal matters of the state.

C. Legislative Budget Assistant

Sec. 14.30 The fiscal committee shall appoint a legislative budget assistant.... He shall have the authority to post audit the accounts and records of any state department board, institution, commission or agency. He shall conduct such investigations, analyses or research into the financial activities and condition of the financial management procedures of a department, board institution, commission or agency.

D. Permanent Standing Committee

Sec. 17-D.3 Each committee is authorized to invite public officials and employees to appear before it for the purpose of submitting information to it. Each committee shall maintain a continuous review of the work of the state agencies concerned with its subject area and the performance of the functions of government within each such subject area. For this purpose the committee may request reports, from time to time in such form as the committee shall designate, concerning the operation of any state agency and presenting any proposals or recommendations such agency may have with regard to existing laws or proposed legislation in its subject area.

E. Sunset Act

Sec. 17-F.1 establishes a "joint legislative committee on review of agencies and programs", to consist of ten members, five each from the house and senate. The duty of the committee is to oversee the review of state agencies and programs. Review dates are established by law (Sec. 17-G.3) and termination dates established (Sec. 17-G.5). The full review procedure is outlined in Sec. 17-G.8 including a review of (original) legislative intent, past appropriations, other agencies with similar functions, achievement of objectives nad future objectives. See Sec. 17-G.8 further.

IV. Gubernatorial Provisions Affecting Education

A. Appointments

The governor appoints seven members of the state board (Sec. 186.1; See II-A-2, supra). The governor also appoints certain members of the post-secondary commission (Sec. 188-D.2; See II-B-2a, supra).

B. Budget:

Sec. 9.2 "Not later than the fifteenth of February of the year of each biennial legislative session, the governor shall transmit to the legislature a document to be known as a budget, setting forth his financial program for each of the fiscal years in the ensuing biennium...." Sec. 9.3 provides that the budget shall consist of three parts. Part I shall contain the governor's program for meeting all the expenditure needs of the state from each general class of funds. Part II shall contain a draft of appropriation bills having for their purpose to give legal sanction to the appropriations recommended to be made in parts I and II. The governor is authorized to make inquires regarding the receipt, custody, and application of state funds (Sec. 9.12).

NEW JERSEY

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

  A. Lower Education

    1. General: Art. 8, Sec. IV. The legislature shall provide for the maintenance and support of "a thorough and efficient system of free public schools for the instructions of all the children in the state between the ages of five and eighteen years."

    2. Governance

    3. Powers/duties: Art. 8, Sec. IV, supra.

  B. Higher Education

    1. General

    2. Governance

    3. Powers/duties

STATUTORY REQUIREMENTS

II. Establishment Provisions

  A. Lower Education

    1. General

    2. Board

      a. Structure: Sec. 18A: 4-3. The "State Board of Education" is the governing board for public education consisting of twelve appointed members who have resided in the state for not less than five years preceding their appointment not less than three of whom shall be women. Their terms of office are for six years. The chancellor and the chairman of the board of higher education or his designee shall be members ex-officio without vote. All appointive members of the board are appointed by the Governor, with the advice and consent of the senate (Sec. 18A: 4-4).

      b. Powers/duties: Sec. 18A: 4-10 The general supervision and control of public education, except higher education, and of the state department of education shall be vested in the state board, which shall formulate plans and make recommendations for the unified, continuous and efficient development of public education, other than higher education, of people of all ages within the state. Other duties are specified, Sec. 18A: 4-10 through 4-20. Sec. 18A: 6-71 et. seq. also details duties, including the establishing of teacher performance evaluation criteria (Sec. 18A: 6-75) and educational research and demonstration centers (Sec. 18A: 6-71).

3. Chief State School Officer

   a. Structure: Sec. 18A: 4-21. The "Commissioner of Education" is appointed by the Governor as the "Chief State School Officer," for a term of five years.

   b. Powers/duties: Sec. 18A: 4-22. He/She is the chief executive and administrative officer of the department having general charge and supervision of the work of the department. The commissioner also serves as the budget request officer and approval officer of the department (See also Sec. 18A: 4-23 et. seq.).

4. Department of Public Instruction

   Sec. 18A: 4-1 The state department consists of the state board, the commissioner, and the executive agency (divisions, bureaus, branches, committees, et. al.).

B. Higher Education

1. General

2. Board/Agency

   a. Structure: Sec. 18A: 3-1. The "Department of Higher Education" is a principal department in the executive branch of the State Government. It consists of a board of higher education, a Chancellor, and other divisions and committees as deemed necessary by law. A "Board of Education is also created consisting of six ex-officio members with vote and two without vote plus nine citizen members (Sec. 18A:3-6) appointed by the governor with advice and consent of the senate (Sec. 18A: 3-8).

   b. Powers/duties: Sec. 18A: 3-3. The department assists in the coordination of state and federal activities relating to higher education. It is to advise and inform the governor on the affairs and problems of higher education; stimulate programs; and encourage cooperative programs. The Board of Higher Education is charged with the general supervision of higher education (Sec. 18A: 3-13) including long-range planning, establishing policy, coordinating activities, and maintaining financial oversight of the system of higher education. Sec. 18A: 3-14 specifies these duties, including conducting research developing a master plan, establishing new academic agencies and minimum standards for higher education, receiving education, receiving budget requests, making financial arrangements with the federal government and reporting to the governor and the legislature on the status of higher education.

III. Provisions for Legislative Oversight Affecting Education

A. Legislative Budget and Finance Director

Sec. 52: 11-32 creates a "Legislative Budget and Finance Director", an officer of the legislature. The duties of the Director (Sec. 52: 11-33) are to collect and assemble factual information relating to the fiscal affairs of the state for use of the Joint Appropriations Committee of the legislature in formulating its annual proposals as to the amounts to be appropriated for the support of state institutions.

B. Office of Fiscal Affairs

An "Office of Fiscal Affairs" is created by the legislature for purposes of keeping concurrent post-audits for the legislature and for making such studies and investigations it deems necessary for the function of government (Sec. 52: 11-43). The officer is to have an executive director (Sec. 52: 11-44) who is charged with, among other duties, ascertaining "the compliance with legislative intent by the conduct of performance audits and efficiency studies...." Sec. 52: 11-47.

C. Joint Committee on the Public Schools

The "Joint Committee on the Public Schools" is created in Sec. 52: 9R-1. It is made up of seven members each of the house and senate. The committee shall "conduct a continuing study of the system of free public schools, its financing, administration and operations, and to make recommendations for legislative action...." (Sec. 52: 9R-3).

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints the twelve members of the State Board (Sec. 18A: 4-4), and the citizen members of the department of Higher Education (18A: 3-8).

B. Budget:

Section. 52:9H-1 requires the governor to deliver "budget recommendations for all appropriations...under one budget." Under Sec. 52:27B-20, the governor's budget "shall embody the proposed complete financial program of State Government for next ensuring fiscal year..." The form of the budget is specifically defined such that a detailed itemization should occur. (See also Sec. 52:27B-21 and 52:27B-22).

NEW MEXICO

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Art. XII, Sec. 1 provides that "A uniform system of free public schools sufficient for the education of, and open to, all children of school age in the state shall be established and maintained.

2. Governance: Art. XII, Sec. 6 establishes a "state board of education" and a "state department of public education." The board is elected from the judicial districts of the state, but shall never consist of less than seven nor more than ten members. The board "shall have control, management and direction of all public schools" and shall appoint a "superintendent of public instruction" who directs the operation of the state department.

3. Powers/duties of the state: A permanent school fund is established from proceeds of sales of land set aside for the public schools (Art. XII, Sec. 2). A current school fund is established under Art. XII, Sec. 4, which further sets aside designated moneys for schools. Art. XII, Sec. 7 provides for the proper investment of school funds.

B. Higher Education

1. General

2. Governance: (A "board of regents," appointed by the governor and confirmed by the senate, is established for each higher education institution (Art XII, Sec. 13), but no statewide constitutional authority is established.

3. Powers/duties of the state: Art. XII, Sec. 11 provides that proceeds of lands and "natural products thereof" be held in trust for the identified institutions of higher education. Art. XII, Sec. 12 further elaborates the lands (granted by Congress under the state charter) to be held or used for higher education.

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

a. Structure: 22-3-2 provides for the equal apportionment of population among the ten districts (see Constitutional provision, supra) to permit ten members of the state board of education.

b. Powers/duties: 22-2-1 declares that the board is the "governing authority and shall have control, management and direction of all public schools" and that it may establish regulations. 22-2-2 further elaborates board powers, giving it policy duties for vocational education, the duty to appoint a superintendent, to determine certification for all school personnel, to authorize adult programs, to establish workshops for local board members, and a variety of other duties. See also 22-2-7 and 22-2-8, the latter providing for educational standards to be prescribed by the board. 22-2-14 mandates enforcement provisions for education standards; 22-2-9 requires the board to oversee federal funds received for the schools.

3, Chief State School Officer

a. Structure: The state superintendent is appointed by the board (22-2-2).

b. Powers/duties: 22-2-5 requires that the superintendent be the chief administrative officer of the state board. Duties are implied under department of education provisions, 22-2-6 (post) and the state board (supra).

4. Department of Public Instruction

a. Structure: A department is established under the Constitution, Art. XII, Sec. 6 (supra).

b. Powers/duties: 22-2-6 directs the department to "supervise all schools and school officials coming under the jurisdiction of the state board." Other duties identified include advising boards of regents on Code matters and making an annual report on education. Implied duties: see 22-2-2, supra.

5. Other Provisions

Under the Executive Reorganization Act, a cabinet level department of educational finance and cultural affairs was created, (subsequently merged with the department of finance and administration, see 9-1-11 and 9-1-12), giving New Mexico a secretary of education. The purpose of the secretary is that of general oversight in eliminating duplication and overlap and to provide for administration and budget control (9-1-2). The secretary is appointed by the governor and confirmed by the senate (9-1-4) and is directly responsible to the governor (9-1-5). He/she has appointive power for all department employees, budget authority for the department, and other duties (9-1-5).

B. Higher Education

1. General

2. Board/Agency

a. Structure: The "Board of Educational Finance", attached to the education department (see II-5, supra) is established under 21-1-29. It consists of 13 members, eleven appointed by the governor with the consent of the senate and two gubernationally appointed student members. The board must appoint an executive secretary (21-1-30). A "Post-Secondary Educational Planning Act" is established in 21-2-1, under which is included all post-secondary education (including junior and community colleges) and also including adult education (21-2-2). The state commission on post-secondary education is governed by the board of educational finance (21-2-3).

b. Powers/duties: The board (commission) is charged with appointing committees as it sees fit to study and make recommendations regarding post-secondary education (21-2-4). It is mandated to carry out planning, including projected needs, facilities, assessing effectiveness and productivity of programs (and duplicative programs), providing methods of fiscal allocation and criteria for standards in appropriations (21-2-5) and for submitting an annual report, with recommendations to the governor and the legislature (21-2-7).

III. Provisions for Legislative Oversight Affecting Education

A. Legislative Council

2-3-1 creates the "New Mexico Legislative Council" made up of 16 members, eight each from the house and senate. Powers and duties are enumerated in 2-3-3, including that of creating committees for the study of major problems. Further duties are contained in 2-3-8 regarding furnishing the legislature with impartial and accurate information and on social and economic effects of legislation. 2-3-18 provides for a "legislative fiscal analyst" to be under the council and who is to furnish "impartial and objective analysis of...fiscal problems of...state and local government."

B. Legislative Finance Committee

The "Legislative Finance Committee" is a joint interim committee composed of eight members, four each from the house and senate (2-5-1). The committee is to examine laws governing financing and operations of departments, agencies and institutions and to recommend further law (2-5-3). It is also to annually review budgets, appropriations requests and the "operation and management of state agencies, departments and institutions...." (2-5-4). See also 2-5-5 on hearings.

C. Legislative Education Study Committee

A permanent joint interim committee is established, consisting of ten members, six from the house and four from the senate (2-10-1). The committee is to have a director (2-10-2) and under 2-10-3, is to "conduct a continuing study of all education in New Mexico" including laws, policies and cost of education (in higher education, such studies apply to teacher training programs only).

IV. Gubernational Provisions Affecting Education

A. Appointments/Approvals: The governor appoints the secretary serving education (9-1-4; see II-A-5, *supra*) and the board of finance (21-1-29; see II-B-2a, *supra*).

B. Budget; 6-3-11 specifies the required detail of the budget including the general financial statement of the state, past, present and anticipated. The budget must be broken down into separate funds, showing expenditures in detail. Gubernatorial recommendations for appropriations and anticipated revenue is also to be stated. The governor is obligated to present the budget to each regular session of the legislature (6-3-21).

NEW YORK

CONSTITUTIONAL REQUIREMENTS

I. Establishment Provisions

A. Lower Education

1. General: Constitution, Art. XI, Sec. 1 "The legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this state may be educated."

2. Governance: Art. XI, Sec. 2 The Regents of the University of the State of New York is continued. Its powers may be altered by the legislature; there shall be not less than nine regents.

3. Powers/duties of the state: Art. XI, Sec. 4 The Regents are the head of the department of education. They are empowered to appoint and remove a commissioner of education, the chief executive officer of the department.

B. Higher Education

Sections cited above apply.

STATUTORY REQUIREMENTS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

a. Structure: Title III, Art. 45, Sec. 202 the board of regents (see constitution, supra) is the governing body of all public educational institutions. By this statute, the number of regents is set at a minimum of fifteen, or four more than the number of judicial districts in the state. The regents are elected by the legislature.

b. Powers/duties: Title I, Art. 3, Sec. 101 The Regents, as head of the department of education, are charged with the general management and supervision of all public schools, the educational work of the state, the University of the State of New York and the department of education. They "shall appoint, and at pleasure may remove, the commissioner." The board has legislative functions (Art. 3, Sec. 207) concerning education and establishing and renewing rules.

3. Chief State School Officer

   a. Structure: Title 1, Art. 7, Sec. 302 The "Commissioner of Education" is chosen by a majority of the board of regents, serves (Sec. 303) at the pleasure of the board (see also Constitution, supra).

   b. Powers/duties: Title 1, Art. 7, Sec. 301 General powers granted to the commissioner to carry out the policy of the board. In section 305, the commissioner's powers are enumerated, charging him/her to enforce law and supervise industrial, trade and other public schools as well as teachers colleges. Also included in the seventeen enumerated duties, the commissioner may cause to have courses offered in places of business for persons over sixteen years old.

4. Department of Public Instruction

   The "department of education" is established and discussed concurrently with the board of regents (Art. 3, Sec. 101 et. seq.; see II-A-2b, supra).

B. Higher Education

1. General

2. Board/Agency

   a. Structure: See structure of the board of regents, Constitution Art. XI, Sec. 4 and Title 1, Art 3, Sec. 101; II-A-2b, supra.

   b. Powers/duties: In terms of higher education, the board is also charged to supervise all professional schools (Title II, Art. 130, Sec. 6506). The commissioner and the education department are to assist in this supervision (Sec. 6507) as are regent-appointed boards for each profession (Sec. 6508).

III. Provisions for Legislature Oversight Affecting Education

A. Legislative Commission on Expenditure Review

In Art. 5-A, Sec. 82, a commission on expenditure review is made up of persons holding designated legislative office, nine total, with two additional non-legislative members appointed by the president (senate) and the speaker (house). The commission is charged with "comprehensive and continuing study" of programs, expenditures, local assistance programs, federal and local fiscal relationships, the supplying of information, and with the preparing of economic studies and conducting research of fiscal impact.

B. Administrative Regulations Review Committee

By the terms of Art. 5-B, Sec. 86, the administrative regulations review committee is made up of six members of the legislature, three from each the house and senate, two appointed by the speaker and two by the temporary senate president and one each from the minority leadership.

The commission is to exercise continuous oversight (Sec. 87) of the process of rule making and examine rules "regarding statutory authority, compliance with legislative intent and impact on the economy, government operations and the affected parties." Any public operation "at least one of whose members is appointed by the governor" comes under the purview of this commission. It is authorized to hire staff.

Reports are due (Sec. 88) "from time to time" to the governor, the temporary president of the Senate, the speaker and to the legislative. The commission may make recommendations to agencies at any time.

C. Legislative Notification of Agency Rules

Art. 6, Sec. 101a (former 101 required publication of rulings and decisions) provided that prior to rule adoption, the agency must send notification to the temporary president of the Senate and to the speaker. The notification must cite statutory authority, time and place of public hearing, complete text of rule, and a fiscal impact statement.

D. Legislative Research

Art. 2, Sec. 23, creates a legislative bill drafting commission consisting of appointed professional staff, for the purpose of not only drafting legislation, but also (Sec. 25) to examine legislative bills in order to advise as to constitutionality, consistency or effect of proposed legislation, and to research any subject of proposed legislation, as requested by either house or any committee.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals

B. Budget: Art. VIII, Sec. 2 of the constitution requires that the governor "submit to the legislature a budget containing a complete plan of expenditures...and all moneys and revenues estimated to be available..." for such expenditures. Sec. 3 requires, in addition, that the governor submit an appropriation (or reappropriations) bill, including proposed legislation.

NORTH CAROLINA

CONSTITUTIONAL REQUIREMENTS

Preamble: "Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools, libraries, and the means of education shall forever be encouraged."

I. Establishment of Education

A. Lower Education

1. General: Art. IX, Sec. 2 The General Assembly shall provide by taxation and otherwise for a general and uniform system of free public schools, which shall be maintained at least nine months in every year, and wherein equal opportunities shall be provided for all students.

2. Governance: Art. IX, Sec. 4 The State Board of Education, consisting of eleven members appointed by the Governor with general assembly approval, plus the Lieutenant Governor, and the Treasurer, is the governing board for public education. Of the appointed members of the board, one shall be appointed from each of the eight educational districts and three from the state at large. Appointments shall be for overlapping terms of eight years. The superintendent of Public Instruction shall be the secretary and chief administrative officer of the State Board of Education (Art. IX, Sec. 4).

3. Powers/duties: Art. IX, Sec. 5 The State Board shall supervise and administer the free public school system and the educational funds provided for its support, and shall make all needed rules and regulations in relation thereto, subject to laws enacted by the General Assembly.

B. Higher Education

1. General

2. Governance: Art. IX, Sec. 8 The General Assembly shall maintain a public system of higher education, comprising the University of North Carolina and such other institutions of higher education as the General Assembly may deem wise. They shall also provide for the selections of trustees of the University of North Carolina and other institutions of higher education.

3. Powers/duties: Art. IX, Sec. 8 The General Assembly may enact laws necessary and expedient for the maintenance and management of the University of North Carolina and other public institutions of higher education.

STATUTORY REQUIREMENTS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

   a. Governance: Sec. 115-10 The State Board is the governing board for public education (constitution, Art. IX, Sec. 4; see I-A-2, supra.

   b. Powers/duties: Sec. 115-11 The Board has general supervision and administration of all educational funds provided by the state and federal government, and all matters relating to the supervision and administration of the public school system, except the supervision and management of the fiscal affairs of the Board, shall be under the direction of the state superintendent in his capacity as the constitutional administrative head of the public school system. All the powers and duties exercised by the State Board of Education shall be conformity with the constitution and subject to such laws as may be enacted from time to time by the General Assembly. The board has exclusive authority in matters of teacher certification and in making policy changes in administration and the curriculum. Under Sec. 115A-3, the board is also responsible for the governance of "a system of community colleges, technical institutes, and industrial education centers, separate from the free public school system of the States".

3. Chief State School Officer

   a. Governance: Sec. 115-12 As provided in Art. IX, Sec. 4, of the North Carolina Constitution, the Superintendent of Public Instruction shall be the secretary and chief administrative office of the State Board of Education.

   b. Powers/duties: Sec. 115-14 It shall be the duty of the State Superintendent of Public Instructions to organize and establish, subject to the approval of the Board, a Department of Public Instruction which shall include such divisions and departments necessary for supervision and administration of the public school system.

4. Department of Public Instruction

   a. Governance: Sec. 143A-39 The Department of Public Education is an agency of state government, and inclusive title designating the State Board, the State Superintendent of Public Instruction and whatever decisions and positions established to carry out the purposes of education. See Sec. 115-10, II-A-2a supra which outlines establishment of the State Board of Education.

b. Powers/duties: See Title 2, Sec. 115-11, II-A-2b, supra, the State Board of Education.

B. Higher Education

1. General

2. Board/Agency

a. Structure: See Constitution, Art. IX, Sec. 8, I-B-2, supra. Sec. 116-3 establishes a "Board of Governors of the University of North Carolina" to include all senior state institutions of higher education. Sec. 116-6 provides that there be 16 members of the board, to be elected by the house and senate for eight year terms. Sec. 116-7 provides that all members be selected at-large and charged with serving "the best interests of the state".

b. Powers/duties: See Constitution, Art. IX, Sec. 8, I-B-2, supra. Sec. 116-11 charges the board with planning and developing a "coordinated system of higher education." It shall govern 16 institutions, maintain liaison with the state board of education (including the community colleges) and the private colleges and universities. The board is responsible for developing a long-range plan for higher education, for the "general determination, control, supervision, management, and governance of all affairs," for determining "functions, educational activities and academic programs...(and) the types of degrees to be awarded". The board must approve any new public (senior) institution, set enrollment levels, and "develop, prepare and present to the Governor...and the General Assembly, a single, unified recommended budget". Among its duties also is to "give advice and recommendations concerning higher education to the Governor, the General Assembly...." The board is also to elect (Sec. 116-14) a president, who is the chief administrative officer of the University. See Chapter 116 generally for other provisions.

III. Provisions for Legislative Oversight Affecting Education

A. Legislative Research Commission

Sections 120-30.10 The Legislative Research Commission consists of five senators and five representatives. The president pro-tem of the senate and the speaker of the house shall be ex-officio members. Their duties are to make or cause to be made such studies of and investigating into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties.

B. Advisory Budget Commission

Sec. 143-4 The Advisory Budget Commission shall consist of ten members of which four are appointed by the Governor, two by the President of the Senate, two by the speaker of the house, and the chairman of the finance committees of the House and Senate. They shall be responsible for recommending to the General Assembly proposed biennial budgets for the requirements of the State Auditor and the State Treasurer.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints the State Board of Education (Art. IX, Sec. 4; Sec I-A-2).

B. Budget: Sec. 143-2. The Governor is responsible for the initation and preparation of a balanced budget of any and all revenues and expenditures for each session of the General Assembly. However, Sec. 143-4 indicates that the Advisory Budget Commission is responsible for recommending the budget to the General Assembly for approval.

NORTH DAKOTA

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Sec. 147 of the Constitution declares that "A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to insure the continuance of that government and the prosperity and happiness of the people, the legislative assembly shall make provision for the establishment and maintenance of a system of public schools which shall be open to all children of the state of North Dakota and free from sectarian control. This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota."

2. Governance: Sec. 82 provides for the popular election of a "superintendent of public instruction." Sec. 83 directs the legislative assembly to prescribe the powers and duties of the superintendent. Sec. 156 declares that the superintendent, the governor, the attorney general and the secretary of state form a "board of University and School Lands" established to oversee all transactions or investments from proceeds having to do with lands given for educational institutions.

3. Powers/duties of the state: The legislative assembly is to provide (Sec. 148) for a "uniform system of free public schools" from primary through higher education (see higher education, *post*). Sec. 149 requires that instruction be given "in those branches of knowledge that tend to impress upon the mind the vital importance of truthfulness, temperance, purity, public spirit and respect for honest labor of every kind." Sections 153-158, 160-161, and 163-165 of the constitution all deal with the proper handling and divestment of lands and proceeds from those lands set aside for schools and universities. All funds derived in any manner from these lands and other incidental sources are to be held forever inviolate for purposes of these institutions.

B. Higher Education

1. General: See Sec. 147, I-A-1, *supra*.

2. Governance: Art. 54, an amendment to the constitution, provides for a "State Board of Higher Education" to consist of seven members appointed by the governor with the consent

of the senate (the governor is to appoint from a list drawn up by the superintendent, the chief justice and the president of the North Dakota Educational Association). The term of office is seven years. See also board of university and school lands, Sec. 156, I-A-2, supra.

3. Powers/duties of the state: Sec. 148 requires that public higher education institutions be established but that tuition, fees, and service charges may be charged to students in higher education institutions. Sections dealing with lands and revenues from lands cited in I-A-3 supra, generally apply to higher education as well. In addition, Art. 54 gives constitutional authority to the board of higher education to consider institutional budgets, to revise these in the best interests of the state and to present a single budget for higher education to the budget board and to the legislature

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

   a. Structure: Sec. 15-21-17 establishes the composition of a state board, to consist of the superintendent and one person from each judicial district in the state, appointed by the governor for terms of six years. (Three nominations to the governor for board appointment are to be drawn up by the State's attorneys' association, the president of the school administrators' association, and the president of the school boards' association).

   b. Powers/duties: Sec. 15-21-18 requires at least one meeting per year of the state board of public education and the state board of higher education. Further, Sec. 15-21-19 shall authorize purchase of sites, construction of buildings, and operation of schools. (Other duties implied under superintendent, post).

3. Chief State School Officer

   a. Structure: Sec. 15-21-01 reaffirms the constitution that a superintendent of public instruction be elected by the voters. His/her term of office is for four years.

   b. Powers/duties: The superintendent "shall have the general supervision of the common and secondary schools of the state..." (Sec. 15-21-04), shall act as advisor to county superintendents (Sec. 15-21-07), and may make contractual agreements with the federal government and draw up necessary regulations relative to those agreements (Sec. 15-21-07.1 and 07.2). The superintendent certifies teachers, approves schools and textbooks, and prepares examinations for eigth grade and high school pupils (Sec. 15-21-09). The superintendent is also to prepare a biennial report to the governor on the status and condition of education and his/her recommendations thereto (Sec. 15-21-14). See Sec. 15-45-01 et. seq. (kindergarten) and Sec. 15-47-01 et. seq. (general provisions) identify other duties.

4. Department of Public Instruction

   a. Structure: The structure of a department of education is implied in Sec. 15-21-03, the appointment of a deputy, assistants and clerks to the superintendent.

   b. Powers/duties: Implied throughout discussion of superintendent, Sec. 15-21-01 et. seq. (See II-A-3, supra).

B. Higher Education

1. General

2. Board/Agency

   a. Structure: Sec. 15-10-02 provides for a "state board of higher education" to consist of seven members to be elected for seven year terms (see constitution Art. 54, I-B-2 supra).

   b. Powers/duties: The board is to appoint a "state commissioner of higher education" (Sec. 15-10-10) and "shall have full authority over the institutions under its control with the right to prescribe, limit, or modify the courses offered...." The board may organize the "work of each institution" and take steps for reasons of efficiency (Sec. 15-10-11), in affirming the constitution, Sec. 15-10-15, the board prepares a single budget for all institutions. The board may also (Sec. 15-10-17) appoint the institutional presidents, faculty and others, adopt rules and regulations for the institutions, determines moral and educational qualifications for students, coordinate work of the different institutions, fix fees and tuition and recommend legislation. See Sec. 15-10-01 et. seq. generally, but especially Sec. 15-10-17.

III. Provisions for Legislative Oversight Affecting Education

A. Committee on Administrative Rules

Sec. 54-35-02.5 creates an interim legislative committee on administrative rules. Sec. 54-35-02.6, to be read in conjunction with Sec. 28-32-03, provides that the committee study and review rules to see that they meet legislative intent.

B. Legislative Council

Sec. 54-35-01 creates a "legisltive council" consisting of the house and senate majority and minority leadership plus five senators and six representatives. This council is a general committee with the power to "study, consider, accumulate, compile and assemble" information on any subject it so wishes including state and local government, issues of public policy and questions of general interest. A special committee is established on budget review which is to, among other things, review the initial executive budget as developed by the director of the budget (Sec. 55-44.1-07).

C. Legislative Audit and Fiscal Review Committee

Created as a sub-committee of the council (supra) is a legislative committee (Sec. 54-35-02.1) established to provide an audit and fiscal review independent of the executive review. It is the "duty of the legislative audit and fiscal review committee to study and review audit reports...(regarding) all fiscal transactions and governmental operations of any department, agency or institution of the state" (Sec. 54-35-02.2).

In a similar vein, but established separately (Sec. 54-35-14) is a legislative budget analyst and auditor who is to provide an analysis of the executive budget, assist the audit and review committee and generally assist the legislature on matters of revenue, trends in spending and financial policy.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor sits on the board of University and School Lands (Sec. 156, constitution; see I-A-2, supra), appoints the state board of higher education (Art. 54, constitution; see I-B-2, supra) and the state board of public education (Sec. 15-21-17; see II-A-2a supra).

B. Budget: Sec. 54-44.1-06 specifies the detail in which the state budget must be prepared. The official budget report is first to be presented to the legislative council (see III-B, supra) and then transmitted to the legislature by the governor at the full legislative session.

OHIO

CONSTITUTIONAL REQUIREMENTS

I. Establishment of Education

A. Lower Education

1. General: Constitution, Art. VI, Sec. 1, 2, and 3. The General Assembly is given broad power to provide "a thorough and efficient System of Common Schools" (Sec. 2) by taxation and for the organization, administration and control thereof.

2. Governance: Art VI, Sec. 4 requires that there be a state board of education to be selected as provided by law and a superintendent of public instruction, who shall be appointed by the State Board of Education.

3. Powers/duties of the state: Art. VI, Sec. 4 provides that the respective powers and duties of the board and of the superintendent shall be prescribed by law.

B. Higher Education

There are no explicit provisions for higher education; though implied powers are contained in Art. VI, Sec. 1, supra.

STATUTORY REQUIREMENTS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

a. Structure: Under the provisions of Title 33, Sec. 3301.11 a "State Board of Education" is elected consisting of one member from each congressional district (to vary with the number of districts) for a term of six years.

b. Powers/duties: The state board is responsible (Title 33 Sec. 3301.07) for the policy planning and evaluation of the public schools and for adult education. It is to "exercise leadership in the improvement of public education" and supervise the allocation of state and federal funds. Included in its duties, the board must formulate minimum standards for students of public and non-public schools, submit an annual report to the governor and the general assembly on status, needs and problems of the public schools and submit a biennial budget request to the director of finance.

3. Chief State School Officer

a. Structure: Title 33, Sec. 3301.08 provides that the superintendent be appointed by the state board and serve at the pleasure of that board for an indefinite period.

b. Powers/duties: The superintendent serves as secretary to the board (Sec. 3301.09) and its executive officer (Sec. 3301.11). He is to, among other duties, provide technical assistance to school districts, conduct studies for school improvement and report to the board on the activities of the state department of education (Sec. 3301.12)

4. Department of Public Instruction

A "department of education" is created under Title 33, Sec. 3301.13. It is the administrative unit which administers the policy of the state board and the duties of the superintendent and consists of the board, the superintendent, who is the chief administrative officer, and a staff.

B. Higher Education

1. General:

2. Board/Agency

a. Structure: The Ohio Board of Regents is created by Title 33, Sec. 3333.02, consisting of nine members appointed by the governor, with advice and consent of the senate, for a nine year term.

b. Powers/duties: The regents duties include the appointing of a chancellor as administrative officer of the board to serve at their pleasure (Title 33, Sec. 3333.03). The board of regents must also make studies of state policy and formulate a master plan for higher education (including role of public and private institutions), report to the governor and the general assembly on study findings, approve or disapprove new branches or institutions and recommend degree programs to be offered or discontinued. The regents also review budget requests for community colleges and higher education institutions and made their recommendations to the department of finance and the chairman of the finance committees in the house and senate.

The board of regents also has authority to approve or disapprove plans for community colleges (Title 33, Sec. 3333.05) criteria for such decisions are set out by law.

III. Legislative Provisions Affecting Education

A. Ohio Legislative Service Commission

Title 1, Sec. 103.11-13 provides that the Ohio Legislative Commission consist of fourteen members. Six are members of the senate appointed by the president pro-tempore, and six are members of the house of representatives appointed by the speaker. The president pro-tempore and the speaker of the house makes up the fourteen members.

The commission will conduct research, make investigations and studies and secure information and make known their findings to the general assembly (Sec. 103.13) They must also "ascertain facts and make reports concerning the state budget" and appoint special committees--legislative and citizen-legislative in composition--to study any topic deemed desirable (Sec. 103.12)

B. Legislative Budget Committee of the Legislative Service Commission

An uncodified addendum to Title 33, Sec. 103.13 provides that a Legislative Budget Committee identify specific provisions of expenditure for which appropriations are made and establish standards and criteria for the use and review of those programs. They also make recommendations as to whether the cited program is achieving its stated objectives as established by the general assembly.

C. Joint Committee on Agency Rule Review

Title 1, Sec. 101.35 establishes a joint committee to review agency rules. It consists of seven members each of the house and senate, appointed by the speaker and the president pro-tempore respectively.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints the board of regents (Sec. 3333.02).

B. Budget: Under Title 1 Sec. 107.03 requires the governor to submit a budget to the general assembly by functions and agency, including "a detailed statement showing the amounts recommended to be appropriated...." This section continues to detail the budget statement.

OKLAHOMA

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

  A. Lower Education

    1. General: Article XII, Sec. 1 "The Legislature shall establish and maintain a system of free public schools wherein all the children of the State may be educated." The legislature is also bound (Sec. 1a.) to "raise and appropriate funds" for the annual support of the schools and to establish and support (Sec. 2.) schools for the "deaf, and mute or blind;" in all respects it has plenary power (Sec. 5.).

    2. Governance: Article XII, Sec. 1 supra.

    3. Powers/duties of the state: Article XII, Sec. 1 supra.

  B. Higher Education

    1. General: Article XIII-A, Sec. 1 All higher education institutions, supported in any financial measure are part of "the Oklahoma State System of Higher Education."

    2. Governance: Article XIII-A, Sec. 2 The nine members of the State Regents are appointed by the governor, confirmed by the Senate, for a term of nine years.

    3. Powers/duties of the state: Article XIII-A, Sec. 2 The regents constitute a coordinating board with power to prescribe standards, determine functions and courses of study, grant degrees, recommend a budget to the legislature, and recommend fees. The legislature (Sec. 3) makes a total allocation for higher education, the regents divide the sum according to institutional needs. Finally, "private, denominational and other institutions of higher education may become coordinated" under the regents (Sec. 4).

STATUTORY REQUIREMENTS

II. Establishment Provisions

  A. Lower Education

    1. General

    2. Board

      a. Structure: Title 70, Sec. 3-101 The State Board of Education is the governing board for public education consisting of seven members, six of whom are appointed by the governor, with advice and consent of the senate, the other of whom is the chief state school officer. Their terms of office are for six years.

b. Powers/duties: Title 70, Sec. 3-104 the governance and control of the state department of education and the supervision of the public school system resides in the state board. They prescribe the duties of the chief state school officer, make policy, adopt rules and regulations, prepare a budget for the governor, prepare an annual report to the governor and the legislature on the status of education, and make recommendations for the improvement of the public school system. The board has exclusive authority in matters of certification of teachers and may accept and spend federal appropriations.

3. Chief State School Officer

a. Structure: Title 70 Sec. 1-105 "The State Superintendent of Public Instruction" is an elected constitutional (Article VI, Sec. 1) officer.

b. Powers/duties: Title 70 Sec. 1-105 He/she is the chief executive officer of the state board of education and, with the state department of education and local boards and superintendents, is responsible for the administration of the public school system (Sec. 1-115).

4. Department of Public Instruction

a. Structure: Title 70 Sec. 1-105 The "State Department of Education" is an agency of state government, established by the constitution and is an inclusive title designating the state board, the state superintendent and whatever decisions and positions established to carry out the purposes of education. See II-A-2 and 3, supra.

b. Powers/duties: Discussed concurrently with the board and superintendent (Sec. 3-104 and 3-105; see II-A-2b and II-A-3b, supra).

5. State Board of Vocational and Technical Education

a. General

b. Board

1. Structure: Title 70, Sec. 14-101 A "State Board of Vocational and Technical Education" is created as a separate governing board. It is made up of six members appointed by the state board of education (ex-officio voting members) six appointed by the governor (five with advice and consent of the senate), one from each of the six congressional districts and the state superintendent. Members serve for a six year term. The director of the department of Vocational and Technical Education serves ex-officio and is the executive officer of the board.

2. Powers/duties: Title 70 Sec. 14-103 The board supervises the Department of Vocational and Technical Education and appoints the director. It also is empowered to supervise programs in vocational and technical education in (most) colleges. The board may enter agreements with the federal government, adopt curricula and enter into agreements with other state agencies.

B. Higher Education

1. General

2. Board/other structure

a. Structure: Title 70, Sec. 3203 This section reconfirms the constitution (See I-B-1 and 2, supra) and sets requirements for membership: 35 or more years of age, Oklahoma citizenship, not more than four from the same profession nor more than three graduates from one institution nor more than two from the same congressional district.

b. Powers/duties: Title 70, Sec. 3206 This statute reconfirms powers granted in the constitution, adding, among other powers, the power to accept federal and other monies, to transfer property and involving fund monies among institutions and to publish a biennial report to the governor, the legislature and the individual institutions. Sections 4202 and 4203 give the regents power to regulate accrediation standards, regulations and degrees granted by the municipal junior colleges.

III. Provisions for Legilsative Oversight Affecting Education

A. State Legislative Council

Title 74, Sec. 451 creates a "State Legislative Council" which consists of all members of the legislature. The duties of the council are to "collect information concerning the government and general welfare... examine the effects of...statutes and...deal with important issues of public policy...and to prepare a legislative program...." Under the auspices of the council are research, legal, and fiscal services, all empowered to, among other things, review administrative rules, review the operations of statutory provisions, conduct budget and post-audit reviews. Section 452.1 elaborates the legislative post-audit functions noting particularly (in the preamble) the rationale and necessity of legislative oversight. Section 452.4 expands the post-audit function to include "an examination of the effectiveness of administration and its effectiveness of administration and its efficiency and adequacy."

Subcommittee of the Appropriations and Budget Committee

Title 74, Sec. 452.3 creates a standing committee to fulfill and expand the duties of the Council. The subcommittee is made up of the chairman of the house and senate appropriations and budget committees plus four members from each house. Among other duties is to "study the management, operations, programs and fiscal needs of agencies, departments, institutions...and other entitles...." In addition, they are to hold hearings, review the executive budget, making continuing audits, conduct post-audits, and review all budgeting procedures.

B. Administrative Procedures Act.

Title 75, Sec. 308 requires that all rules and regulations adopted by a state agency must be submitted to the legislature. Either house may, by resolution, disapprove any agency rules within 30 days from the time it was received. In addition, each agency is required to describe for public inspection, the organization and its method of operations, its rules of practice, and all decisions and opinions (Sec. 302). Before any rule is adopted (Sec. 303) all interested persons must be given an opportunity to respond to the agency rules or regulations.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints the regents for higher education (Art. XIII, Sec. 2), the majority (six of seven) members of the state board of education (Title 70, Sec. 3-101), and six of eleven members of the state board for vocational education (Title 70, Sec.14-101). See I-B-2, II-A-2a, supra.

B. Budget: Title 62 Section 41.24 provides that the governor submit copies of the budget to the presiding officers of each house "immediately after the beginning of each regular session of the legislature." The budget document is to "confirm a complete and itemized plan of all proposed expenditures for each agency or undertaking classified by function, character, and object...." If new revenues are needed, a plan for raising the revenue must also be attached.

OREGON

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Art. VIII, Sec. 3 of the constitution provides that "The Legislative Assembly shall provide by law for the establishment of a uniform, and general system of Common schools."

2. Governance: Art. VIII, Sec. 1, assigns the governor to be superintendent of public instruction for the first five years of the constitution. Thereafter, "it shall be competent for the Legislative Assembly to provide by law for the election of a superintendent...."

3. Powers/duties of the state: Art. VIII, Sec. 2, 4, and 5 provide for the financial support of the schools through a "Common School Fund." The proceeds of all land set aside for educational purposes (except higher education) and all interest earned are to be spent for primary and secondary education, to be distributed to "the several counties... in proportion to the number of children resident therein between the age of four and twenty."

B. Higher Education

1. General

2. Governance

3. Powers/duties of the state: No provisions are made other than a reference to 1859 and 1862 statutes which set aside land for higher education.

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

a. Structure: Sec. 326.021 of the Oregon Code provides for a "State Board of Education" consisting of seven members (one from each congressional district, the remainder at large) appointed by the governor, confirmed by the senate, for a term of four years. The board has governance authority for elementary-secondary and community college education (Sec. 326.0111).

b. Powers/duties: The state board must establish standards "considering first the goals of modern education and the requirements of a sound, comprehensive curriculum...." The board is also to adopt rules for general governance, possible minimum courses and may contract with the federal government (Sec. 326.051). Also included in its responsibilities is the duty to "cooperate with the Oregon Educational Coordinating Commission in the development of a state comprehensive education plan... " (See Commission, post).

3. Chief State School Officer

a. Structure: Sec. 252.150 provides that a "Superintendent of Public Instruction" be elected for a four year term. Sec. 252.180 et.seq. provides for the specific election procedures to be conducted at the time of each general election.

b. Powers/duties: The superintendent is administrative officer of the board, executive head of the department of education, and, among other duties, is to supervise adult education programs in the public schools (Sec. 326.310).

4. Department of Public Instruction

A "Department of Education" is placed under the control of the state board of education for the purpose of carrying out "all administrative functions of the state board" including "supervision, management, and duties of the department are implied through-out; see state board and superintendent, supra.

5. Other Provisions

Sec. 348.715 creates the "Oregon Educational Coordinating Commission," consisting of seven members, representative of the general public, to be appointed by the governor for four year terms. An advisory committee must also be appointed, made up of all segments of education, to assist in indentifying problems, issues and solutions concerning education matters. The commission is to establish a statewide information system for all of education, identify needs develop and propose policy and programs and an evaluation system, including planning efforts. It is to study the governance structure of post-secondary education and provide assistance to the general assembly. Moreover, the commission (Sec. 348.725) is to develop a specific long and short range plan for education, kindergarten through post-graduate, which reviews, among other factors, the continuity of elementary, secondary, post-secondary and continuing education; interrelationships, functions and responsibilities of each level (including education programs appropriate to each segment); the impact of budgetary priorities, of tuition and fees, and appropriate levels of state funding; private education; and a plan "for monitoring progress made toward the attainment of statewide educational goals and objectives..."

B. Higher Education

1. General

2. Board/Agency

   a. Structure: Sec. 351.010 provides for a "State Board for Higher Education" consisting of 11 directors, including two students from different institutions, appointed by the governor, confirmed by the senate (351.020) for a term of four years--except for the students who serve a two-year term (Sec. 351.040). A "Chancellor of the State Board of Higher Education" is to be appointed by the board (Sec. 351.075).

   b. Powers/duties: The board is permitted to oversee, control, manage etc., real property and buildings for the several institutions and to initiate or engage in legal proceedings (Sec. 351.060). Further, the board may, among other things, appoint and employ a president and all staff for each institution, establish tuition and fees, prescribe admission qualifications, "supervise the general course of instruction...and the research, extension, education, and other activities...." (Sec. 351.085).

      The Chancellor and the Department of Higher Education is to maintain a control service program--including capital construction, management analysis, legal services, academic affairs and research--compile information, and propose an annual operating budget. In addition, the Chancellor must propose the biennal budget for submission to the board and thence to the governor, and prepare an annual report of the principal activities of the department for the board (Sec. 351.085). The department may maintain "relationships and negotiations between the state legislature...and the various institutions of higher education...." Individual institutional representatives are expressly forbidden from doing so without written permission (Sec. 351.110).

III. Provisions for Legislative Oversight Affecting Education.

A. Review of State Agency Rules

Sec. 171.707 requires that each state agency file rules, authorized or required by law, to the legislative counsel for review. The review may be waived, but must be undertaken upon the written request of any member of the legislative or by anyone affected. The review must determine if the rule is written within the intent and scope of the enabling legislation, in accord with provisions of the law and/or raises constitutional or legal issues (Sec. 171.709).

B. Fiscal Impact Statements

Sec. 173.025 requires that the legislative fiscal officer prepare a fiscal impact statement for each measure into the legislative assembly relative to how that measure would effect local government expenditures. Similarly, the legislative revenue officer must prepare a statement of the effect of any measure that may impact local revenue.

C. Legislative Counsel Committee

The "Legislative Counsel Committee" is established as a joint committee of the legislature (Sec. 173.111). Aside from duties to review agency rules (supra) the committee is to "perform or cause to be performed... research service requested by any Committee of the Legislative Assembly in connection with the performance of its duties" (Sec. 173-130). It is also to assist in the preparation of initiative measures under prescribed conditions (173.140).

D. Legislative Fiscal Officer

A "Legislative Fiscal Officer" is to be appointed (Sec. 173.410) to perform the following "ascertain facts and make recommendations... concerning the Governor's budget report", concerning state expenditures, and concerning fiscal implications of state organization (Sec. 173.420).

E. Legislative Revenue Officer

Sec. 173.800 requires that a "Legislative Revenue Officer." The office created under this statute is to, among other duties, prepare studies and reports on taxation, ascertain facts concerning revenues and make fiscal impact statements regarding revenue.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints the state board of education (Sec. 326.021; See II-A-2a, supra) and the state board of higher education (Sec. 351.010; See II-B-2a, supra).

B. Budget: A budget, to be prepared in accord with Sec. 291.216 of the Code, is developed each even-numbered year by the governor for the legislature. The budget must be detailed "by organization units, objects and funds, and the income by organization units, sources and funds...."

PENNSYLVANIA

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Constitution, Art. 3, Sec. 14 "The General Assembly shall provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth".

2. Governance: Constitution, Art. 4, Sec. 8. The Governor appoints among other officers specified by law, a Secretary of Education. The appointment is "subject to the consent of two-thirds or a majority of the members elected to the Senate as is specified by law"

3. Powers/duties of the state

B. Higher Education

1. General

2. Governance: See appointment of Secretary, Art. 4, Sec. 8, supra.

3. Powers/duties of the state

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General:

2. Board

a. Structure: Title 71, Sec. 118.1 The State Board of Education consists of 17 members, eight of whom also serve as members of the Council of Basics Education, eight of whom serve as members of the Council of Higher Education, and a chairman. Each member is appointed by the governor, "by and with the advice and consent of two-thirds of all members of the Senate", and hold office for six year terms. The governor designates, "to serve at his pleasure, a member as Chairman of the State Board of Education", who also serves on both the Council of Basic Education and the Council of Higher Education.

b. Powers and duties: Title 71, Sec. 367-370 In general, the "State Board of Education shall have the power, and its duty shall be to review the policies, standards, rules and regulations formulated by the Council of Basic Education and the Council of Higher Education. and adopt broad policies and principles and establish standards governing the educational program of the Commonwealth" (Sec. 367 (a)). In relation to lower education, powers and duties of the State Board of Education include: hearing school district appeals of Council of Basic Education decisions regarding approval or disapproval of county organization plans, of creation of new school districts or of changing boundaries of an existing school district (Sec. 367 (b)(1)); reviewing "annually the budget requests of the Department of Education and the budget requests of educational institutions not part of the public school system...recommending approval or disapproval of such budget requests" and returning such requests to the department with comments...prior to their submissions to the Budget Secretary (Sec. 327 (b) (3)); applying for, receiving and administering any federal grants...(Sec 367 (b) (3.1) (i)); making rules and regulations (Sec. 367 (g)) and approving, modifying, or rejecting " all rules and regulations proposed by the department (of education) in the areas under the policy control of the State Board of Education" (Sec. 368); engaging "in a constatnt review and appraisal of education in the Commonwealth", taking into account educational objectives, alternative organizational patterns, alternative programs of study and "the operating efficiency of the educational system" (Sec. 369 (a)); and, submitting biennially a comprehensive report of its activities to the governor and the general assembly along with improvement recommendations, including "a statement outling the expected benefits and projected costs of any recommended cause of action" (Sec. 370).

3. Other Provisions: Council of Basic Education

   a. Structure: Title 71, Sec. 118.1 The Council of Basic Education consists of nine members, all of whom are State Board of Education members, including the chairman of the State Board. The Governor designates, to serve at his pleasure, a member of the council to act as chairman of the council.

   b. Powers and duties: Title 71, Sec. 369 (b) Among the powers and duties of the Council of Basic Education are the following: to approve county plans for organization of administrative units; to review the annual budget for all educational programs other than higher educational programs; to investigate programs, conduct research and formulate policy in all educational areas not within the purview of higher education, including, but not limited to : the creation, merger, consolidation or reorganization of school districts, the operation of special schools, the subjects to be taught and activities to be conducted in elementary, secondary, adult education and other schools, and the justifications for employment of professional personnel in the public schools; and to encourage and promote such agricultural, industrial, vocational and technical education programs as the needs of the Commonwealth may require.

4. Chief State School Officer

   a. Structure: Title 71, Sec. 1038 provides that a department of education be administered by a "Secretary of Education". The appointment of the secretary by the governor is provided by constitution (See I-A-2, supra).

b. Powers and duties: Title 71, Sec. 118.1 "The Secretary of Education, or his designated representative, shall be the chief executive officer of the State Board of Education". While the Secretary is entitled to attend all meetings of the board, as well as meetings of the Councils of Basic Education and Higher Education, and has "the right to speak on all matters before the board and the councils", he does not have a vote. On specific matters, see state board of education discussed above (See II-A-2b, supra).

5. Department of Public Instruction

Title 71, Sec. 1037 creates a "Department of Education" (all of the previous functions, powers and duties of the Department of Public Instruction are transferred to this new department). See Title 71, esp. Sec. 367-369 as discussed in II-A-2b, supra under state board. See also Title 24, Sec. 1225 on teacher certification duties of the department and Title 71, Sec. 352 for other general duties. Title 71, Sec. 352 requires the department to administer all laws related to establishment, maintenance and conduct of public schools and to provide advice and information to school officials and citizens related to school laws; "to issue all commissions to superintendents and assistant superintendents of schools in the Commonwealth"; to prescribe the minimum courses of study for public schools; "to inspect and require reports of the educational work in elementary and secondary schools and institutions, wholly or partly supported by the state, which are not supervised by the public school authority...."

B. Higher Education

1. General

2. Board/Agency

a. Structure: Title 71, Sec. 118.1 (see II-A-2a, supra). There is one board in Pennsylvania broken out into elementary-secondary and higher education for functional purposes.

b. Powers and duties: Title 71, Sec. 367-370 General powers and duties of the state board as cited in Sec. 367(a) (See II-A-2a supra). In relation to higher education, powers and duties of the state board of education includes adopting policies under which the secretary of education approves or disapproves "any action of a state-owned college or university, community college, or state-related or state-aided college or university 1) in establishing additional branches or campuses, or in discontinuing branches or campuses" (Sec. 367(b)(4); 2) "in establishing new professional schools, or upper divisions programs by two year institutions (Sec. 367 (b)(5); and, 3)...for admission to university status, and approve or disapprove applications by two-year institutions to become four-year institutions" (Sec. 367 (b)(6)). The board adopts policies under which the secretary of education approves or disapproves the request of any private institution of higher education for admissions to state-related or state-aided status, or for elegibility for other state financial support (Sec. 367 (b)(7)). The board also adopts, reviews and revises a "master plan for higher education which shall be for the guidance of the Governor, General Assembly, and all institutions of higher education financed wholly or in part from state appropriations" (Sec.367 (b)). In addition, the board is to make "all reasonable rules and regulations necessary to carry out" duties (Sec. 367 (g)) and approves modifies, or rejects all rules and regulations proposed by the department of education (Sec. 368) and reviews annually "the budget request...of institutions of higher education financed wholly or in part from state appropriations recommending approval or disapproval of such budget requests and return such budget requests to the Secretary of Education with comments, if any, prior to their submission to the Budget Secretary, and submit these recommendations and findings to the General Assembly subsequent to the submission of the Governor's budget to the General Assembly" (Sec. 367 (b) (3)). State Board powers and duties related to review and appraisal of education and to submission of a biennial comprehensive report are cited above (see II-A-2a, supra).

3. Other Provisions: Council of Higher Education

a. Structure: Title 71, Sec. 118.1. The "Council of Higher Education" consists of nine members, all of whom are state board of education members, including the chairman of the state board. The governor designates, to serve at his pleasure, a member of the council to act as chairman of the council.

b. Powers and duties: Title 71, Sec. 369. Among the powers and duties of the council are the following: to develop a master plan for higher education, including a system of community colleges; to "review the annual budget requests of institutions of higher education" (Sec. 369 (c)(2)); to develop standards for the approval of colleges and universities for the granting of certificates and degrees; and to investigate programs, conduct research studies nad formulate policy proposals in all areas pertaining to higher education.

III. Provisions for Legislative Oversight Affecting Education

A. Joint State Government Commission

Title 46, Sec. 65 This "continuing" joint legislative commission is composed of the entire membership of the House and the Senate. The executive committee of the commission is composed of the president pro tem of the Senate, the house speaker, the majority and minority leaders and whips of each house, and the chairman of the majority and minority caucuses of each house. The commissioner is empowered "to employ a director and such professional, techincal, clerical and other assistance as may be deemed necessary". Under Title 46, Sec. 66, the powers and duties of the Joint State Government Commission are to make investigations and studies and to gather information useful to the General Assembly as well as the standing committees of both houses, and to report its findings, accompanied by drafts of legislation, to those bodies; and to furnish technical staff assistance to standing committee of both houses during regular as well as special legislative sessions.

B. Legislative Budget and Finance Committee

Title 46, Sec. 70.1. The "Legislative Budget and Finance Committee" consists of the president pro tem of the senate and five other senate members, the speaker of the house and five other house members. Under Title 46, Sec. 70.2 and 70.3 the committee shall have the power to perform "all duties and functions relating to the study of the revenues, expenditures and fiscal problems of the Commonwealth, its officers, boards, committees, commissions, institutions and other State agencies" (Sec. 70.2). The committee is authorized to appoint an executive director, who shall be the chief executive officer of the committee, and to select and employ other personnel as deemed necessary. In addition, the committee is empowered to request, receive and study fiscal information, "directed to the elimination of unnecessary expenditures and to the promotion of economy in the government" (Sec. 70.3 (1)), to examine current fiscal records to determine "whether or not such appropriations are being currently expended for the purposes and within the statutory restrictions provided by the Legislature" (Sec. 70.3 (2)); and to report unintended use or statutory violations to the General Assembly, Governor and the Auditor General (Sec. 70.3 (3)).

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals

The Governor appoints the following officials: the Secretary of Education (Const. Art. 4, Sec. 8), and the 17 members of the State Board of Education (Title 71, Sec. 118.1).

B. Budget

The "Secretary of the Budget" is to evaluate efficiency and effectiveness of all programs supported by the state prepatory to developing a state budget (Title 71, Sec. 231). Under Title 71, Sec. 233, the governor is to submit a state "budget and program and financial plan" to include a balanced budget with designated revenue sources, the governor's capital and operating recommendations, state purposes for each program, measures used to determine effectiveness, levels of accomplishments and explicitly stated purposes objectives and criteria for each newly recommended program.

RHODE ISLAND

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Art. XII, Sec. 1 "The diffusion of knowledge, as well as of virtue, among the people, being essential to the preservation of their rights and liberties, it shall be the duty of the general assembly to promote public schools, and to adopt all means which they may deem necessary and proper to secure to the people the advantages and opportunities of education."

2. Governance: Art. XII, Sec. 2 The general assembly shall be responsible for the permanent school fund for the support of the public schools.

3. Powers/duties of the state: Art. XII, Sec. 2 provides for a prepetual school fund and Sec. 4 requires that this fund be held inviolate.

B. Higher Education

1. General

2. Governance

3. Powers/duties of the state

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

a. Structure: Under Sec. 16-49-1 there is established a "board of regents" for education. It shall consist of fifteen members as follows: the chairman of the senate finance committee, the chairman of the house finance committee, and thirteen members appointed by the governor with the advice and consent of the senate... (Rhode Island has a single board for all of education).

b. Powers/duties: Under Sec. 16-49-5, the board of regents shall approve a systematic program of information gathering, processing, and analysis addressed to every level, aspect and form of education, especially as that information relates to current and future educational needs. It shall approve a master plan defining broad goals and objectives for all levels of education in the state. It will formulate a broad policy to implement the goals and objectives established and adopted by the regents. The board is to adopt standards and require enforcement and exercise general supervision over all public education in the state. It will allocate and coordinate the various education functions among the educational agencies, prepare, with the commissioner, the state educational budget, and provide for the staffing and organization of a department of education.

3. Chief State School Officer

a. Structure: Under Sec. 16-49-6, the regents shall appoint a commissioner of education who shall serve at the pleasure of the regents, for a period of not more than three years without reappointment.

b. Powers/duties: Under Sec. 16-49-6, the commissoner shall be responsible for the general supervision of the department of education and the appointment of the several officers and employees of the department. He will also develop and implement a systematic program of information gathering, processing, and analysis addressed to every level and form of government; He shall supervise the master planning process for all levels of education in the state. He shall implement policy as it pertains to the goals and objectives established by the regents, assist the regents in the preparation and presentation of the state budget, and supervise the operation of the department of education.

4. Department of Public Instruction

Under Sec. 16-49-7 the board of regents shall maintain a department of education which shall perform such of the research and administrative function and duties required of the regents by the provisions of this chapter.

B. Higher Education

1. General

2. Board

a. Structure: See Sec. 16-49-1, II-A-2a, *supra*.

b. Powers/duties: See Sec. 16-49-5, *supra*. The board of regents shall approve a master plan defining goals for higher education.

The board shall be responsible for all the functions, powers, and duties vested in the board of trustees for state colleges under the provisions of the general laws of Rhode Island.

III. Provisions for Legislative Oversight Affecting Education

A. Legislative Council

Under Sec. 22-8-1, there is created a "Legislative Council" of seven members for the purpose of obtaining information on the operation of the state government and of making a study of legislative problems. It shall make recommendations to the general assembly concerning legislation which in its opinion may be required, shall examine the effect of previously enacted general laws and public laws, and make inquiries from persons affected by the operation of such laws. The council shall consist of three senators and four representatives.

B. Joint Committee on Legislative Affairs

Under Sec. 22-11-1, there is created a permanent "Joint Committee on Legislative Affairs" consisting of the majority and minority leaders from the senate and the house of representatives. The members shall serve until their successors have been duly elected and qualified...." Under Sec. 22-11-3 it shall be the responsibility of said joint committee to act upon all administrative matters affecting the operation of the general assembly including the preparation of requests for the annual operating budget for the general assembly, the control of house and senate appopriations including expenditures of standing, select and special committees of the general assembly.

C. Auditor General

Under Sec. 22-13-1, the auditor general shall be appointed by the joint committee on legislative affairs. He shall prepare and submit annually to the committee a proposed budget for the ensuing fiscal year. He shall be responsible for an examination of the effectiveness of administration and its efficiency in terms of the program of the state agency authorized by law to be performed, and make post-audits and performance audits of the board of regents for education.

D. Legislative Oversight Commission

The Legislative Oversight Commission shall consist of eleven members. The commission shall adopt and make public regulations and guidelines for determining the continued public need for governmental bodies (Sec. 22-14-1).

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: Under Sec. 14-49-1 (Sec. II-A-2a, supra), the governor shall appoint the thirteen public members to the board of regents. Under 16-49-6, the governor shall also serve as a voting member of the board of regents.

3. Budget: Sec. 35-3-7. Before the twenty-fourth legislative day of each January session of the general assembly, the governor shall submit to the general assembly a budget containing a complete plan of estimated revenues and proposed expenditures for the next fiscal year. He must also submit essential facts regarding the bonded and other indebtedness of the state, financial statements of the condition of the treasury at the end of the last completed fiscal year, the estimates of the expenditures and appropriations necessary in his judgement for the support of the state government for the ensuing fiscal year, and comparisons with appropriations for expenditures during the current fiscal year as well as expenditures of the state for the last two complete fiscal years.

SOUTH CAROLINA

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Art. XI, Sec. 3. The General Assembly shall provide for the maintenance and support of a system of free public schools open to all children in the state and shall establish, organize and support such other public institutions of learning, as may be desired.

2. Governance: Art. XI, Sec. 1. The State Board of Education is composed of one member from each of the judicial circuits of the state. The members shall be elected by the legislative delegations of the several counties. Members shall serve such terms and have such powers and duties as specified by the General Assembly.

3. Powers/duties of the state: Art. XI, Sec. 2. There shall be a state superintendent of Education who shall be the Chief Administrative Officer of the public education system of the state and shall have such qualifications as may be prescribed by law.

B. Higher Education

1. General

2. Governance

3. Powers/duties of the state

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

a. Structure: Sec. 59-5-10 provides statutory basis for Art. XI, Sec. 1, supra. The State Board of Education shall be composed of one member from each judicial circuit with representation of counties within the circuit rotating the representation except by unanimous consent. Term of office is four years.

b. Powers/duties: Title 59-5-60: The Board adopts policies, rules and regulations governing all state public schools. It has complete budgetary responsibilities, and prescribes and enforces rules for the examination and certification of teachers. It appoints such committees and such members of committees as may be required or as may be desired to carry out the orderly functions of the boards.

3. Chief State School Officer

   a. Structure: Sec. 59-3-10. The state superintendent of education is elected for four years at each general election in the same manner as other state officers.

   b. Powers/duties: Sec. 59-3-30. As secretary and administrative officer to the State Board of Education, the superintendent is responsible for general management of all public school funds provided by the State and Federal Government. He has the responsibility to organize staff and administer a State Department of Education which shall include such divisions and departments as are necessary to render the maximum service to public education in the state.

4. Department of Public Instruction

   Sec. 59-3-30. The "State Department of Education," general provisions only as cited in the above title.

B. Higher Education

1. General

2. Board/Agency

   a. Structure: Sec. 59-103-10 creates a "State Commission on Higher Education" composed of eighteen members. Twelve members are appointed by the governor with the advice and consent of the legislative delegation from whose district the appointments are made. Six members are appointed by the governor but recommended by the district legislative delegation. The members serve four year terms. Various economic interests and minority groups are to be fairly represented.

   b. Powers/duties: The Commission, under Sec. 59-103-25, is obliged to publish legislation applicable to it as a means of clarifying the higher education governance structure. It may make studies (Sec. 59-103-20) of enrollment, costs, business management practices, administration, curriculum and other areas of interest. It may also study statewide coordination efforts. The Commission is obliged to make budget recommendations (Sec. 59-103-60) to the General Assembly and the State Budget and Control Board regarding "policies, programs, curricula, facilities, administration and finance of all State-supported institutions of higher learning..." and may make investigations of requests. Under Sec. 59-103-35, line-item budgets must be submitted to the Commission from all public institutions of higher learning including a single budget from the State Board for technical and Comprehensive Education.

III. Provisions for Legislative Oversight Affecting Education

A. Legislative Council

Under Sec. 2-11-10, a "Legislative Council is established, made up of three persons holding designated legislative office. The Legislative Council has the responsibility of the organizing and operation of preliminary studies and recommendations, reference and bill drafting services provided to serve the General Assembly. An annual report is made to the General Assembly(Sec. 2-11-50)

B. Legislative Audit Council

Sec. 2-15-10 establishes a Legislative Audit Council made up of three members, each of whom is elected by the General Assembly. The Audit Council is charged (Sec. 2-15-60) with conducting fiscal investigations and making audits upon request by the General Assembly, its members or committees. It is to conduct investigations and make audits of departments, agencies, and institutions "for the purpose of determining the effectiveness of such operations and possible legislative action to bring about improvement."

IV. Gubernatorial Provisions Affecting Education

A. Appointments/approvals: The governor appoints higher education commissioners (Sec. 59-103-10). Sec. II-B-2a, supra.

B. Budget: Sec. 11-11-70. Within five days after the beginning of each regular session of the General Assembly the state budget and control board presents to the presiding officer of each house copies of 2 budgets, based on its own conclusions and judgements, containing a complete and itemized plan of all proposed expenditures for each State Department, bureau, division, officer board, commission, institution or other agency or undertaking, classified by function.

SOUTH DAKOTA

CONSTITUTIONAL PROVISIONS

I. Establishment of Education

A. Lower Education

1. General: Art. VIII, Sec. 1. "The stability of a republican form of government depending on the morality and intelligence of the people, it shall be the duty of the legislature to establish and maintain a general and uniform system of public schools whenever tuition shall be without charge, and equality open to all; and to adopt all suitable means to secure to the people the advantages and opportunities of education."

2. Governance: Art. XIV, Sec. 3 provides that "educational institutions that may be sustained either wholly or in part by the state shall be under the control of a board of five members (or up to nine members) appointed by the Governor and confirmed by the senate..."

3. Powers/duties of the state: Art. VIII, Sec. 2 establishes a perpetual trust fund, the principal of which is held inviolate. Money from the sale of set-aside lands and other moneys shall go into the fund. Sec. 3-15 and Sec. 18 all deal with the state responsibility to finance public schools.

B. Higher Education

1. General

2. Governance: Art. XIV, Sec. 3, supra, applies to institutions of higher education.

3. Powers/duties of the state

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

   a. Structure: Sec. 13-1-1. The State Board of Education is the governing board for public education, consisting of seven members appointed by the governor with the advice and consent of the senate, with due regard to the end that each supreme court district shall be represented. The term of office for each member of the state board is five years (Sec. 13-1-2).

   b. Powers/duties: Sec. 13-1-11. "The state board of education shall be responsible for the adoption of all policies for the government of the division of elementary and secondary education and for the adoption and implementation of all rules for carrying out such supervisory functions as relate to elementary and secondary education, or as may be vested in the division." The board is also responsible for appointing the superintendent (Sec. 13-1-3) and other staff (Sec. 13-1-9), for school accreditation (Sec. 13-1-12), for accepting federal funds (Sec. 13-1-23), and for making recommendations of educational needs to the governor and the legislature (Sec. 13-1-39).

3. Chief State School Officer

   a. Structure: See Sec. 13-1-3, supra, and 13-1-9, supra.

   b. Powers/duties: Sec. 13-1-25. "Subject to policies established by the state board, the superintendent of elementary and secondary education shall have general supervision over all elementary and secondary schools in the state including adult education, kindergarten, nursery schools, and summer schools, and shall perform other duties and have such other powers as set forth this title and elsewhere provided by law." See Chapter 13-3 generally. Among other duties, the superintendent is charged with educational supervision (Sec. 13-3-44), with school accreditation (13-3-47), and recommendations to the state board (Sec. 13-3-53). The superintendent is also responsible for private school accreditations (Sec. 13-4-1) and for teacher certification (Sec. 13-4-5).

4. Department of Public Instruction

   a. Structure: Sec. 13-1-3 et. seq; Sec. II-A-2a supra.

   b. Powers/duties: See sections cited in 4a, supra.

5. Other provisions

   A. Department of Education and Cultural Affairs

      a. Structure: The department created in Art. IV, Sec. 8 and Sec. 1-32-2. Under Sec. 1-45-2, "The head of the Department of Education and Cultural Affairs is the Secretary of Education and Cultural Affairs."

b. Powers/duties: As provided under Sec. 1-45-4, the Department of Education and Cultural Affairs consists of the divisions of Elementary and Secondary education, Vocational education, higher education and cultural affairs. The secretary reviews and makes recommendations concerning the annual budget request of each division and has the authority to approve comprehensive education and cultural affairs plan for the department. Functions of the Secretary are (1-45-33): 1) review and recommend a budget for all divisions under the department, 2) recommend comprehensive plans, 3) foster coordination, and 4) central services.

B. Board of Vocational Education

a. Structure: Sec. 1-45-9. The head of the division of vocational education is the "State Board of Vocational Education," made up of seven members appointed by the Governor, one from the board of regents, one from the state board of education and three representatives of users and two at large (Sec. 1-45-10), for a period of four years (Sec. 1-45-11).

b. Powers/duties: The board of vocational education shall head the division of vocational education and direct and control its functions and such other functions allocated to the division. (Sec. 1-45-11). See also Sec. 1-45-13 and 13-39.

B. Higher Education

1. General

2. Board/Agency

a. Structure: Sec. 13-49-1. The board of regents, consisting of seven members, shall be appointed by the Governor, by and with the consent of the senate. Under Sec. 13-49-3, each report shall be appointed for a period of six years. The board of regents appoints the commissioner of higher education as the chief executive of the board to serve at the boards pleasure (Sec. 13-49-10).

b. Powers/duties: Sec. 13-49-1. The control of the public, post secondary educational institutions of the state offering college credit which are sustained wholly or in part by the state shall be vested in the board of regents. Under Sec. 13-49-10, the commissioner of higher education appointed by the board, shall be the board's executive officer. The board has the "power to govern and regulate" each institution and has facilities oversight responsibilities (Sec. 13-49-13).

c. Sec. 13-50-1. "The "State Postsecondary Commission" is the planning commission for the state higher education system. It is housed under the department of education and cultural affairs as a department planning commission of 13 members appointed by the governor for a four year term (1-45-27). The commission approves and adopts plans, assists in coordinating all programs and advises the secretary on such matters as he/she submits (1-45-29). See powers of Secretary, II-A-5b, supra.

III. Provisions for Legislative Oversight Affecting Education

Legislative Research Council. Sec. 2-9-1 creates a "Legislative Research Council" which consists of all members of the legislature. The duties of the council are to instigate research and collect information concerning the government and general welfare of the states, make recommendations concerning public policies, prepare a legislative program in the forms of bills, or otherwise, as in its opinion the welfare of the state may require, to be presented to the legislature.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals. The governor appoints the seven members to the state board of education with the advice and consent of the senate (Sec. 13-1-1, Sec. II-A-2a, supra), the seven members of the board of regents are also appointed by the governor (Sec. 13-49-1, Sec. II-B-2a, supra), as are the five members to the state board of vocational education (Sec. 1-45-10; Sec. II-5-B, supra).

B. Budget: Sec. 4-7-9. "The Governor, through the bureau of finance and management, shall prepare and submit a budget report to the legislature...." The budget report (Sec. 4-7-10) shall contain summary statements of the financial condition of the state accompanied by such detailed schedules of assets and liabilities as the Governor deems desirable..." but which must include detail as mandated in this section. Under Sec. 4-7A-1, a zero-based budget is required, using decision packages, for a maximum of six departments or agencies each session. Minimum levels of operation must be specified (Sec. 4-7A-3), and priorities must be ranked by each agency (Sec. 4-7A-4).

TENNESSEE

CONSTITUTIONAL PROVISIONS

I. Establishment of Education

A. Lower Education

1. General: Art. II, Sec. 12 "The State of Tennessee recognizes the inherent value of education and encourages its support. The General Assembly shall provide for the maintenance, support and eligibility standards of a system of free public schools."

2. Governance: See Art. II, Sec. 12, supra.

3. Powers/duties of the state: See Art. II, Sec. 12, supra.

B. Higher Education

1. General: Art. II, Sec. 12 "The General Assembly may establish and support such post secondary education institutions, including public institutions of higher learning, as it determines."

2. Governance

3. Powers/duties of the state

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General: Sec. 49-101 "There is established a system of public education."

2. Board

a. Structure: Sec. 49-102 The system of public education shall be administered from the state level by the Commissioner of Education, and the State Board of Education. Under Sec. 49-106, the state board is composed of the Governor, the Commissioner of Education as chairman, and twelve members appointed by the Governor for a nine year term.

b. Powers/duties: Sec. 49-107 The control of the State Department of Education and the supervision of the public school system resides in the state board. Sec. 49-107 provides that the state board be also the board of vocational education and the board of examiners for teachers. The board has the power to modify the budget within a given year's appropriation. The board prescribes rules and regulations (Sec. 49-108) for the approval and classification of all public schools, grades kindergarten through twelve. It has exclusive authority in the spending and administering of federal funds (Sec. 49-109).

3. Chief State School Officer

   a. Governance: Sec. 49-103 The chief executive of the department of education is the "Commissioner of Education" who shall be appointed by the governor.

   b. Powers/duties: Sec. 49-105 The commissioner is the chief executive of the State Board of Education, and with the State Department of Education and local boards and superintendents, is responsible for the administration of the public school system. Numerous duties detailed in this section.

4. Department of Public Instruction

   a. Structure: Sec. 49-102 The State Department is an implied agency of the state government and is an inclusive title designating the state board, the state superintendent and whatever decisions and positions established to carry out the purposes of education.

   b. Powers/duties: Sec. 49-107; Sec. II-A-26 Also, the department is charged with "the administration of such laws as the legislature from time to time may enact."

B. Higher Education

1. General

2. Board

   a. Structure: Sec. 49-3237 The "Board of Regents" consists of seventeen members including four ex-officio members (the governor, the commissioner of education, the commissioner of agriculture, and the executive director of the Tennessee higher education commission, all of whom serve as non voting members). Eleven members are appointed by the governor from each district and three at large from different geographical areas of the state. All terms shall be for 3 years except for an annual student appointment.

b. Powers/duties: Sec. 49-3239 The board has the power to select and employ the chief executive officer of the state university and college system and the executive officers of the several institutions. In addition, the board confirms the appointment of administrative personnel, teachers, and other employees of each state institution. The board has general responsibility for the operation of the institutions, including curricula, degree requirements, operating and capital budgets for all universities and community colleges under its control, and set policies for fiscal affairs.

3. Other Provisions

The Postsecondary Education Act is created by Sec. 49-3901. The purpose of the act is "to provide for the protection, education, and welfare of the citizens of the state..." (Sec. 49-3902). This includes minimum standards of quality and authorizing the granting of degrees, diplomas and certificates.

The Commission on Postsecondary Vocational Institutions (Sec. 49-3905) consists of the commissioner of education and nine members appointed by the governor. Sec. 49-3904 exempts those institutions which are accredited, but otherwise all postsecondary vocational institutions fall under its purview to oversee quality, ethics, fiscal responsibility, promulgate rules and hold investigations (Sec. 49-3906); see also Sec. 49:3907 and Sec. 49:3908).

The Tennessee Higher Education Commission is created by Sec. 49-4201. Sec. 49-4205 provides that the commission consist of nine members appointed by the governor. The duty of the commission is "to study the use of public funds for higher education...and to analyze programs and needs in the field of higher education." Sec. 49-4203 provides that the commission develop a master plan, develop policies for distribution of funds, "study the need for particular programs, departments, academic provisions" as well as branch and extension operations. See this section further and Sec. 49-4204 _et_. _seq_.

III. Provisions for Legislative Oversight Affecting Education

A. Fiscal Review Committee

Sec. 3-701 This committee is made up of nine members from both the senate and house of representatives. The purpose of the committee is to become knowledgeable about the fiscal affairs of the state and to use every means of imparting this knowledge to the members of the legislature. It is the function of the committee to conduct a continuing review of such items as revenue collections, budget requests from the several spending agencies of the state, the recommended executive budget, the state debt, and the condition of the various state funds.

B. Legislative Service Office

Sec. 3-1101 The purpose of this committee is to conduct research on important problems for the consideration of the legislature. It is also to provide personnel to serve as committee staff or to assist the staff of any committee of either house upon request of the speaker of the senate or of the house of representative.

C. Program Evaluation Office

Sec. 3-1401 An office of program evaluation is created within the general assembly to furnish to the members of the general assembly reports of the findings of its evaluative studies of state or local governmental programs, agencies and departments.

D. Tennessee Governmental Entity Review Law

Sec. 4-2902 "The General Assembly finds and declares that state legislation of its citizens, business, and industry is increasing at an alarming rate and that a method of reviewing such regulation is necessary to insure that unnecessary and harmful regulation is abolished and that legitimate, necessary regulation is conducted efficiently and economically. It is the intent of the general assembly to provide a responsible method to review state governmental regulation." Among other education-related institutions terminated are the higher education and the vocational commissions, the department of education, and the board of education, pending review, in Sec. 4-2908. Committee objectives are provided in Sec. 4-2910 and criteria are provided in 4-2912. See also Sec. 4-2913 et. seq.

E. Administrative Procedure Act

Sec. 4-507 et. seq. provides for a "Uniform Administrative Procedures Act" by which an agency must file an adoption, amendment or repeal of any regulation to be forwarded to the appropriate standing committee for review and approval. Disapproval of a rule by the committee is subject to being rescinded by the general assembly.

VI. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints the twelve members to the State Board of Education (Sec. 49-103; Sec. II-A-2a supra). Eleven of the seventeen members of the Board of Regents is appointed by the governor (Sec. 49-3237; Sec. II-B-2 supra).

B. Budget: Sec. 9-604 The governor, with the assistance of the director of the budget, shall review the estimates, altering, revising, increasing, or decreasing the items of said estimates as he may deem necessary in view of the needs of the various spending agencies and the total anticipated revenues of the state government during the ensuing fiscal year. The governor shall present the budget to the general assembly during the organizational session of the first general assembly in each odd numbered year.

TEXAS

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

   A. Lower Education

      1. General: Art. VII, Sec. 1 provides that "A general diffusion of knowledge" is necessary for the people and that therefore the state must make provision "for the support and maintenance of an efficient system of public free schools."

      2. Governance: Art. VII, Sec. 8 provides for a "State Board of Education" to be appointed or elected for terms (not over six years) as fixed by law. Duties are also to be fixed by law.

      3. Powers/duties of the state: The duties of the state to provide monies for a statewide school system are enumerated in Art. VII, Sec. 2-6a. These sections deal primarily with the use and sale of lands originally set aside for the schools and the care of revenues from such land.

   B. Higher Education

      1. General: Art. VII, Sec. 10 provides that "The Legislature shall as soon as practicable establish, organize, and provide for the maintenance, support, and direction of a University of the first class...."

      2. Governance

      3. Powers/duties of the state: A "Permanent University Fund" to be created from lands and property set aside for the establishment and maintenance of a university is provided in Art. VII, Sec. 11.

STATUTORY PROVISIOMS

II. Establishment Provisions

   A. Lower Education

      1. General

      2. Board

         a. Structure: Sec.11.01 of the Education Code provides that the State Board of Education, the State Board for Vocational Education, the commissioner of education, the School Tax Assessment Board and the State Department of Education comprise the Central Education Agency.

Sec. 11.21 establishes a State Board of Education composed of one member elected from each congressional district to serve a six year term.

b. Powers/duties: The Central Education Agency, under Sec. 11.02, exercises general control over public education, including education by other state or federal agencies. (Higher education excluded). The control education agency establishes the rules for and is empowered to enter into agreement with and accept funds from federal agencies. The State Board of Education serves as the State Board for Vocational Education (Sec. 11.24; see also 11.35 and 11.41) and "is the policy-forming and planning body for the public school system of the state" (Sec. 11.24). It may contract with the Coordinating Board for higher education (see II-B-2 post) for coordination with higher education and community colleges for vocational-technical education. In addition the Board formulates the budget (Sec. 11.26) for the foundation program and the Central Education Agency. It adopts operating budgets, oversees budget control, regulates school accreditation, and teacher certification and reports to the legislature on all activities and expenditures of the Central Education Agency.

3. Chief State School Officer

a. Structure: Title 2, Sec. 11.25 provides that the State Board of Education appoint a "state commissioner of education" to serve for four years at a salary set by the board. Sec. 11.51 reaffirms the "Office of State Commissioner of Education".

b. Powers/duties: The state commissioner is the executive officer of the board (Sec. 11.25) and is to enforce the policies of the board. Sec. 11.52 elaborates the powers and duties, including the promotion of efficiency and improvement, recommendations to the board in terms of policy, rules and regulations, providing a uniform system of reporting and accounting, the issuing of teaching certificates, and an annual full reporting to the board (one month prior to the regular session of the legislature) on the conditions of education, including those items requested by the board.

4. Department of Public Instruction

Established as a part of the Central Education Agency in Sec. 11.01. See II-A-2a supra. Under Title 2, Sec. 11.61 it is provided that "The State Department of Education shall constitute the professional, technical, and clerical staff of the Central Education Agency." It shall be organized by the commission, with board approval (Sec. 11.62), to carry out its several functions: to carry out all mandates of the Central Education Agency, to use advisory committees, assist local school districts, and to review budgets and fiscal reports of the districts (Sec. 11.63).

B. Higher Education

1. General

2. Board/agency

a. Structure: A Higher Education Coordinating Board is the board for the Texas College and University system (Sec. 61.001 and 61.003). It includes all accredited public four-year and junior colleges. The board consists of 18 members appointed by the governor with advise and consent of the Senate. They serve for a term of six years and must represent all areas of the state (Sec. 11.022). The governor designates the chairman (Sec. 11.023).

b. Powers/duties: The powers of the board are limited by legislature statute, all other powers are retained in the institutions (Sec. 61.021). The board designates a "commissioner of higher education" who, in turn, selects professional and clerical staff (Sec. 61.028). The board is "the highest authority in the state in matters of public higher education" (Sec. 61.051). It establishes criteria for and defines levels of institutions (junior college through university), sets enrollments, must specifically approve or disapprove old or new degree or certificate programs and approves or disapproves all off-campus credit courses and regulates credit and non-credit courses for adult and continuing education. Physical plant planning also comes under its preview (Sec. 61.058).

III. Legislative Provisions Affecting Education

A. State Legislative Council

Art. 5429b of the Texas Civil Statutes establishes a "State Legislative Council" appointed by the president of the senate (five Senators) and the speaker (ten Representatives). The president and the speaker serve ex-officio. The Council is to "investigate departments, agencies, and officers of the state", to make studies and gather information for the legislature as it deems useful and make recommendations to the legislature. It may sit as an interim committee.

B. Legislative Budget Board

A "Legislative Budget Board" is created, made up of four members from each the House and Senate and including the Speaker and the Lieutenant Governor (Art. 5429c). The board appoints a Director of the Budget who is accountable to the board. A system of fiscal notes are to be devised by the board to denote any expenditures of funds not originally authorized by the legislature. Five-year cost projections are to be made by the board regarding any bill prior to committee hearing. Art. 5429c-3 directs the board to establish "a system of performance audits and evaluation designed to provide a comprehensive and continuing review of the program" of the State. These audits are to be published and reported to the legislature, noting the operational efficiency and program performance in terms of the statutory functions.

C. Sunset Act

The "Texas Sunset Act" is provided for in Art. 5429k. The Sunset Commission is made up of four members from each the house and senate. The appointment is for four years. Reports on advisory committees are due each year while reports on the substantive aspect of the agency (excluding higher education) are due over a year prior to its statutory abolishment. The commission then conducts a performance evaluation, public hearings are held, and final findings and recommendations (with suggested appropriation levels) are presented. Criteria used by the commission in its study and evaluation include: efficiency of the agency or advisory committee, identification of objectives, to what extent objectives were met, an assessment of alternatives for performing regulation, extent to which the advisory committee was used, how well complaints were handled, duplication with other agencies and degree of public participation. The Central Education Agency is subject to abolishment (Sec. 11.011); the State Board of Education is subject to review, but is not abolished by the Sunset Act. (Sec. 11.211).

D. Administrative Procedures Act

Art. 6252-13a of the Texas code establishes an "Administrative Procedure and Texas Register Act". Each house of the legislature is to adopt rules to provide for a review by the "appropriate standing committee" which is to approve or disapprove the adoption of the agency regulation.

E. Other Provisions

So that government may "be conducted on a full-time basis," Art. 5429e, the Legislative Reorganization Act, authorizes committees of the legislature to carry on their work whether or not the legislature is in session. Each house may create, by rules of procedure or simple resolution, whatever committees it wishes. Standing Committees have the responsibility of formulating and initiating legislative programs, making inquiries, studies and investigations and drafting legislation as they so desire.

Article 5429f creates two General Investigating Committees, one each for the House and Senate, to hold whatever investigations each deems desirable, calling on witnesses to appear and records to be produced as seems appropriate. The committee has the power to examine "municipal, county or other political subdivisions of the state" as well as state records, documents and files.

An Economic Impact Statement, drawn up by a state agency, by request of the speaker or the lieutenant governor, is mandated in Art. 5429i. The statement is to reflect, among other things, effects on employment, costs of goods and services, and changes in revenue and expenditures of the proposed bill.

Under 5429j, the governor is required to submit a biennial report to the legislature on the organization and efficiency of state agencies (higher education excluded) along with recommendations by the governor for improvements.

VI. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints the higher education coordinating board (Sec. 11.022). See II-B-2a, supra.

B. Budget: The governor is required to develop a budget for the state and to submit such budget to the legislature prior to the next legislature session (Art. 689a-6).

UTAH

CONSTITUTIONAL REQUIREMENTS

I. Establishment of Education

   A. Lower Education

      1. General: Art. X, Sec. 1, The Legislature shall provide for the establishment and maintenance of a uniform system of public schools, which shall be open to all children of the state, and be free from sectarian control. The public schools system shall include kindergarten schools; common schools, consisting of primary and grammar grades; high schools, and agricultural college; a university; and other schools as the legislative is also bound to provide an institution for the Deaf and Dumb, and for the blind (sec. 10).

      2. Governance: Art. X, Sec. 8, The general control and supervision of the public school system shall be vested in a state board of education the members of which shall be elected as provided by law. The board shall appoint the state superintendent of public instruction who shall be the executive officer of the board.

      3. Powers/duties of the state: Art. X, Sec. 3, provides for the funding of public education through the sale of lands set aside for education and through the interest on other assets.

   B. Higher Education

      1. General: Art. X, Sec. 2, defines what constitutes a public school system. Included is an agricultural college and a university. No other constitutional provisions are stipulated.

      2. Governance

      3. Powers/duties of the state

STATUTORY REQUIREMENTS

II. Establishment Provsions

   A. Lower Education

      1. General

2. Board

   a. Structure: Sec. 53-2-1. The state board of education is the governing board for public education consisting of nine members, elected by qualified registered electors, according to elections districts, for a term of four years.

   b. Powers/duties: Sec. 53-2-12. The general control and supervision of the public school system is vested in the state board of education. It shall adopt board policies, rules, and regulations relating to general oversight, but is specifically prohibited from direct intervention in the government, management, and operations of school districts, institutions and programs...." It is authorized to apply for, receive, administer, and distribute to school districts funds available through programs of the federal government for the purposes of improvement of educational programs in the schools of the state (Sec. 53-2-12.5) and issue teacher certificates (Sec. 53-2-15). Sec. 53-3-1 provides that the board appoint a superintendent of public instruction.

3. Chief State School Officer

   a. Structure: Sec. 53-3-1. The state superintendent of public instruction is appointed by the state board of education. He/she shall be the executive officer of the board and shall serve at the pleasure of the board. The state superintendent shall have attained the age of thirty and shall be the holder of a state certificate of the highest grade issued in some state or shall be a graduate of some reputable university, college or normal school.

   b. Powers/duties: Sec. 53-3-2. The state board of education with the state superintendent as its executive officer shall be charge with the administration of the system of public instruction, and with general superintendence of the district schools of the state and of the school revenue set apart and appropriated for their support.

4. Department of Public Instruction

   a. Structure

   b. Powers/duties: Sec. 53-2-12; see II-A-2b supra. Implied in discussion of board

B. Higher Education

1. General: The purpose of the higher education act (Sec. 53-48-1) is to "provide a more efficient and more economical system of high quality public education through centralized direction and master planning...."

2. Board/ Agency

a. Governance: Under Sec. 53-48-3, the state system of higher education consists of the state board of higher education, colleges, universities, and such other public post-high school educational institutions as the legislature may from time to time create. Sec. 53-48-5 provides that the board shall consist of fifteen resident citizens of the state, appointed by the governor with the consent of the senate.

b. Powers/duties: In Sec. 53-48-4, the state board of education is vested with the control, management, and supervision of the institutions of higher education. Sec. 53-48-6 provides that the board appoint a commissioner of education to serve as the chief executive officer of the board. He is responsible to the board and sees that its policies and programs are properly executed.

III. Provisions Affecting Legislative Oversight of Education

A. Legislative Management Committee

Sec. 36-12-8 creates a legislative management committee made up of four sub-committees having equal representation from each major political party from each house of the legislature. Under the auspices of the management committee are research, budget, legal, and audit services, an empowered to, among other things, review administrative rules, review the operations of statutory provisions and conduct budget and post audit reivews.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals:

The governor appoints the members of the state board of higher education (Sec. 53-48-5; see II-B-2a, supra).

B. Budget:

Sec. 63-38-2 provides that the governor submit copies of the budget to the presiding officer of each house of the legislature together with a schedule for all of the proposed appropriations of the budgets clearly itemized and classified within three days after the conveving of the legislature in regular session, and within one day after the ensuing fiscal year. The budget shall contain a complete plan of proposed expenditures and estimated revenues for the ensuing year.

VERMONT

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

  A. Lower Education

    1. General: Constitution Ch. II, Sec. 64 Requires that a "competent number of schools ought to be maintained in each town" or other provisions be made "for the convenient instruction of youth."

    2. Governance

    3. Powers/duties of the state

  B. Higher Education

    1. General: Constitution, Ch. II, Sec. 65 The State has the right to grant charters to educational institutions that "are to be and remain under the patronage or control of the State...."

    2. Governance

    3. Powers/duties of the state

STATUTORY REQUIREMENTS

II. Establishment Provisions

  A. Lower Education

    1. General

    2. Board

      a. Structure: Title 16, Sec. 161 "The State Board of Education" consists of seven persons, appointed by the governor for a six year term with advice and consent of senate; consideration given to equitable geographic representation. Title 162 stipulates removal by the governor.

      b. Powers/duties: Title 16, Sec. 164 the board supervises the management of the department of education and the public school system. The board must engage in budget preparation, making regulations governing certification and qualification of teaching and reporting to the general assembly. The board constitutes the state board for vocational education, for vocational rehabilitation, and for adult basic education. In addition, it determines educational standards for public school admission and graduation. The board also must approve private schools and is the sole state agency for receiving federal funds (with the governor's approval).

3. Chief State School Officer

    a. Structure: Title 16, Sec. 211 A Commissioner of Education is appointed by state board with approval by the governor for an indefinite period. Removal is by majority vote of the board.

    b. Powers/duties: Title 16, Sec. 212 The Commissioner is to supervise, direct and evaluate all aspect of public school programs and must also coordinate with higher education, advise the legislature, and "provide methods whereby the people may be informed" of the conditions of public education.

4. Department of Public Institution

    Establishment and powers implied (Title 16, Sec. 164; See II-A-2b, supra) and discussed concurrently with board.

B. Higher Education

1. General

2. Board

    The board of higher education in Vermont is created by executive order; there are no relevant statutory provisions.

III. Provisions for Legislative Oversight Affecting Education

A. Legislative Council

Under Title 2, Sec. 401 the Council is a permanent agency established to serve the legislature, to be constituted (Sec. 402) by four members each of the house and senate. By the terms of Title 2, Sec. 404, the Council staff is to furnish research, and informational, legal and bill drafting services and provide staff for standing committees.

B. Joint Fiscal Committee

Under Title 2, Sec. 501, four members each of the house and senate are appointed by the legislative leadership. The committees (Sec. 502) provide staff for the house appropriations and the senate finance committees and house ways and means committee which reviews all fiscal operations of the state.

C. (Joint) Legislative Committee on Administrative Rules

The Committee on Administrative Rules, Title 3, Sec. 817, is composed of four members each of the house and senate appointed by the governor. An Interagency Committee on Rules and Administrative Procedures is also established (Sec. 820). The Interagency Committee is to review all agency laws for consistency with legislative intent. The powers and duties of the Joint Legislative Committee are to review the work of the Interagency Committee as part of its effort to review, evaluate and coordinate the work of state agencies and to effectuate the legislation on adoption of administrative rules (Title 3, Sec. 803).

V. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints the state board of education (Title 16, Sec. 161; see II-A-2a supra). See above III-A-S, III-A-3, and IV-C.

B. Budget: The budget director, who has authority (Title 32, Sec. 207) to study state agencies regarding efficiency and management and to prepare the operating and capital budgets, is appointed by the governor. The governor shall submit the executive recommendations for all state agency budgets to the general assembly (Title 32, Sec. 306, 307).

VIRGINIA

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Constitution, Art. VIII, Sec. 1 "The General Assembly shall provide for a system of free public elementary and secondary schools for all children of school age throughout the Commonwealth, and shall seek to ensure that an educational program of high quality is established and maintained."

2. Governance: Constitution, Art. VIII. Sec. 4 General supervision of the public school system is vested in a board of education consisting of nine members who are appointed by the Governor, subject to General Assembly Confirmation.

3. Powers/duties of the state: Constitution, Art. VIII, Sec. 5 The board of education is empowered to establish school divisions; to develop a slate of candidates from whom division superintendents are selected; to approve textbooks and instructional material and to effect educational policy, subject to ultimate authority of general assembly.

B. Higher Education

1. General: Constitution, Art. VIII, Sec. 9. "The General Assembly may provide for the establishment, maintainance, and operation of any educational institutions which are desirable for the intellectual, cultural, and occupational development of the people."

2. Governance: Constitution, Art. VIII, Sec. 9. "The governance of such institutions, and the status and powers of their boards of visitors or other governing bodies, shall be as provided by law."

3. Powers/duties of the state: Art. VIII, Sec. 9; See II-B-2, supra.

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

a. Structure: Under Sec. 22-11 and 22-12.1 the "State Board of Education," vested with responsibility for the general supervision of the school system, is composed of nine members who are appointed by the governer for four year terms, subject to general assembly confirmation.

b. Powers/duties: General supervision of the school system is vested in the State Board of Education (Sec. 22-11). The board has legislative functions (Sec. 22-19) for establishing and renewing educational rules and regulations, but must stipulate in advance of enacting a regulation, the administrative impact and projected coats of implementation of and compliance with such regulation (Sec. 22-19.01). The Board prescribes standards of quality to be maintained in the public shcools, subject to revision by the general assembly and annually reports to the governor and general assembly on the school divisions' success or failure in maintaining those standards (Sec. 22-19.1).

3. Chief State School Officer

   a. Structure: Sec. 22-22 provides that "The Superintendent of Public Instruction" is appointed by the governor, after consultation with the state Board of Education, subject to general assembly confirmation, for a term coincident with the governor making the appointment.

   b. Powers/duties: The Superintendent formulates rules and regulations which may be necessary for the enforcement of school laws in cooperation with local school authorities. Also, the Superintendent serves as the secretary of the State Board of Education (Sec. 22-28).

B.1 Higher Education

1. General: The "State Council of Higher Education for Virginia" (SCHEV) is created under Sec. 23-93. The purpose of the council is "to promote the development and operation of an educationally and economically sound, vigorous, progressive, and coordinated system of higher education...."

2. Board/Agency

   a. Structure: The Council consists of eleven members appointed by the governor, subject to general assembly confirmation, for four year terms. (Sec. 23-9.3)

   b. Powers/duties: Sec. 23-9.5, 23-9.6: 1 and 23-9.9 establishes the state council as a coordinating board for four year state supported institutions and the Virginia community college system (Sec. 23-9.5). Among its powers are the following: development of statewide plans (Sec. 23-9.6: 1) approval of new academic programs and discontinuance of "nonproductive" programs (Sec. 23-9.6: 1); approval of mission statement and approval of creation of any department, school and college (Sec. 23-9.6: 1); and the development of budget formulas and submission of recommendations for each institutional budget request to the governor and the general assembly (Sec. 23-9.9). Authorized by Sec. 23-9.4, the State Council appoints a director who is recognized as the state higher education executive officer.

State Board for Community Colleges and Community College System

a. Structure: Sec. 23-213 and 216. The State Board of Community Colleges is composed of fifteen members appointed by the governor for four year terms subject to legislative confirmation. The board is responsible for establishment, central and administration of a statewide system of comprehensive community colleges.

b. Powers/duties: Sec. 23-217 et. seq. The board is authorized to prepare statewide plans for the Virginia Community College System and expend state appropriated funds (Sec. 23-218). The board appoints a Chancellor as the chief executive officer (Sec. 23-223). The board is however, bound to adhere to policies adopted by the state council of higher education (Sec. 23-221).

C. Secretary of Education: Sec. 2.1-51.20

The Secretary of Education, created by executive order in 1972, is empowered to resolve administrative, jurisdictional or policy conflicts between agencies and officials of all of education. The secretary is "authorized to direct the preparation of...policies, plans, and budgets for education for the Governor...." (Sec. 2.1-51.20).

III. Provisions for Legislative Oversight Affecting Education

A. Division of Legislative Services

Under Sec. 30-28.12, 30-19.5, and 30-28.16, the "Division of Legislative Services" is an agency under the supervisory control of the committees on rules of the house and of the senate, meeting jointly. The duties of the Division include that of studying the practical operation and effects of proposed legislation and existing statutes.

B. Virginia Advisory Legislative Council

This legislative council consists of fourteen members, of whom five are senate members and nine are house members. It is the duty of the council to investigate any matter referred to it by either the general assembly or the governor and to report its findings to both the legislature and the executive (Sec. 30-29 et. seq.).

C. Joint Legislative Audit and Review Commission

Under Sec. 30-56 et. seq., the commission consists of eleven members, seven members of the house and four members of the senate. A director, appointed by the commission with general assembly confirmation, and an executive staff of professional persons having budgetary, management analysis and cost accounty experience, serve terms of six years. The duties of the commission include: Making performance audits of state agencies to ascertain that funds appropriated are being spent for intended purposes and to evaluate the effectiveness of programs in accomplishing legislative intent: studying the efficiency of state agencies operations: and reporting findings and recommendations to state agencies, to the general assembly and to the governor.

D. Reports

Submission of Reports and other Information to the Governor and the Legislative Committees is Provided Under Sec. 2.1 - 404: "To enable the House Committee on Appropriations and the Senate Committee on finance to fully carry out its prescribed duties, all ... agencies and institutions of the state shall provide such committees with any ...information, as may be deemed necessary and allow such committees ample opportunity to physically observe the department's, agency's, or institutions's daily operations."

E. Administrative Procedure Act

Sec. 9-6, 14:1 et. seq. adopts an "Administrative Process Act." The Director of Legislative Services is to send a statement "as to the basis, purpose, impact and summary of the regulation to each member" (of the appropriate committee) if the regulation affects more than 25 people or would cost more than $25,000 to implement.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals

The governor appoints nine members of the state board of education (Const., Art. VIII, Sec. 4; Stat., Sec. 22-11; See II-A-2a, supra.). The governor also appoints the superintendent of public instruction for a term coincident with governor's (Const., Art. VIII, Sec. 6; Stat., Sec. 22-22; See II-A-3, supra.), and, further, appoints eleven members of the state council of higher education. (Sec. 23-9.3; See II-B.1-2a, supra.). Finally, the governor appoints fifteen members of the state board of community colleges (Sec. 23-215; See II-B.2a, supra.).

B. With regard to the budget, the governor: submits annually to the House Appropriations Committee and the Senate Finance Committee a six year revenue plan (Sec. 2.1 - 293); prescribes targets for expenditures amounts for state agencies (Sec. 2.1-394); provides for public hearings on the budget and may require attendance of any state board, institution or agency at such hearings (Sec. 2.1-396); biannually conducts survey of all state agency operations (Sec. 2.1-397); and, prepares and submits biannually to the general assembly the executive budget (Sec. 2.1-398) and a corresponding budget bill (Sec. 2.1-399).

WASHINGTON

CONSTITUTIONAL REQUIREMENTS

Preamble

"It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex."

I. Establishment of Education

A. Lower Education

1. General: Art. IX, Sec. 2. "The legislature shall provide for a general and uniform system of public schools. The public school system shall include common schools, and such high schools, normal schools, and technical schools as may hereafter be established. But the entire revenue derived from the common school fund and the state tax for common schools shall be exclusively applied to the support of the common schools."

2. Governance: Art. IX, Sec. 2, *supra*.

3. Powers/duties: Art. IX, Sec. 2, *supra*. Also, Art. IX, Sec. 3 provides for the funding of the common schools. The fund principal is held inviolate and provisions are made for the addition to the fund, including the sale of lands. All interest from the fund is to be used for the common schools.

B. Higher Education

1. General

2. Governance

3. Powers/duties

STATUTORY REQUIREMENTS

II. Establishment Provisions

A. Lower Education

1. General: Sec. 28A.02.010 reaffirms the Constitution, Art. IX, supra.

2. Board

    a. Structure: Sec. 28A.04.110. The "State Board of Education" is the governing board for public education. The board is made up of two members from each congressional district (not including at-large) by "the boards of directors of school districts thereof" (Sec. 28A.04.010). The term of office is for six years (Sec. 28A.04.070).

    b. Powers/duties: Sec. 28A.04.120. The state board has the power and duty of approving programs of courses leading to teacher and administrator certification, supervising the issuance of teacher's certificates, examining and accrediting secondary schools, adopting rules and regulations, and hearing and deciding appeals as otherwise provided by law. See also Sec. 28A.04.130 et. seq.

3. Chief State School Officer

    a. Structure: Sec. 28A.03.010 requires that a "superintendent of public instruction" be elected by the voters in a general election, to hold office for four years.

    b. Powers/duties: Sec. 28A.03.030. The Superintendent of Public Instruction has supervision over 211 matters pertaining to the public schools of the state, and, among other duties, to report to the governor and the legislature as may be necessary for school improvement, to oversee rules and regulations and courses of study, to act as ex-officio president and chief executive officer of the board and, with the attorney general, decide points of law.

B. Higher Education

1. General

2. Board/Agency

    a. Structure: Sec. 23B.80.010 creates a council for post-secondary education in the state of Washington. The council is made up of nine citizen members to be appointed by the governor and confirmed by the senate as representatives of the public at large. (Sec. 28B.80.040).

b. Powers/duties: Sec. 28B.80.030. The council may engage in overall planning for post secondary education in the state, which shall include the collection and analysis of necessary data from public, and where appropriate, private institutions of post secondary education. The board makes recommendations for the development of improved practices of administrative management in order to facilitate the most efficient operation of the public institutions and the avoidance of unnecessary duplication among the institutions.

III. Provisions for Legislative Oversight Affecting Education

A. Legislative Council

Title 44, Sec. 44.24.010 creates a "state legislative council" consisting of fifteen senators and sixteen representatives. The duties of the council (Sec. 44.24.020) are to examine and study the administrative organization and procedures of the state government, its offices, boards, committees, commissions, institutions, and other state agencies, and to make recommendations, where found advisable, directed to the elimination of unnecessary overlapping or duplications of functions, procedures and expenditures, and to the promotion of economy and efficiency in state government. Sec. 34.04.160 provides for legislative review of rules of administrative agencies by the council "to determine if the legislature intent is being correctly followed."

B. Legislative Budget Committee

Sec. 44.28.010 creates a "Legislative Budget Committee" consisting of eight senators and eight representatives from the legislature. The duties of the council are to make examinations and reports concerning the current condition of all state funds, appropriations and other moneys. The committee also examines the organization and operation of procedures necessary or desirable to control the expenditures and other fiscal operations of the state government, institutions and other agencies.

C. Administrative Procedure Act

See "Legislative Council," III-A, supra.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints the nine members to the Council for Post Secondary education (Sec. 28B.80.010, Sec. II-B-2a, supra).

B. Budget: Sec. 43.88.060 requires the governor to submit a budget to the legislature during December prior to the legislative session during which the budget is to be considered. Sec. 43.88.030 stipulates the detail and form in which the budget is to be submitted. See also 43.88.090 and 43.88.110.

WEST VIRGINIA

CONSTITUTIONAL REQUIREMENTS

I. Establishment Provisions

A. Lower Education

1. General: Art. XII, Sec. 1 The legislature shall provide, by general law, for a "thorough and efficient system of free schools."

2. Governance: Art. XII, Sec. 2 The general supervision of the free schools of the state is vested in the West Virginia board of education. The board shall consist of nine members to be appointed by the governor, by and with advice and consent of the senate, for overlapping terms of nine years.

3. Power/duties: Art. XII, Sec. 2 The board of education shall in the manner prescribed by law, select the state superintendent of free schools who shall serve at its will and pleasure. He/she shall be the chief school officer of the state and shall have such powers and shall perform such duties as may be prescribed by law.

B. Higher Education

1. General

2. Governance

3. Powers/duties

STATUTORY REQUIREMENTS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

a. Structure: Title 7, Sec. 18-2-1 provides that the state board of education is the governing board for public education, consisting of a total of eleven members of whom one shall be the state superintendent of schools, ex-officio, and one of whom shall be the chancellor of the board of regents, ex-officio, neither of whom shall be entitled to vote. The other nine members shall be citizens of the state appointed by the Governor, by and with the advice of the senate, for overlapping terms of nine years.

b. Power/duties: Title 7, Sec. 18-2-5 The control and supervision of the public school system resides in the state board. They prescribe the duties of the state school officer, determine the policies of the state, except as to the West Virginia University and Potomac School, and make rules for carrying into effect the laws and policies of the state relating to education. The board also has exclusive authority in matters of certification of teachers.

3. Chief State School Officer

a. Structure: Title 7, Sec. 18-3-1 The state superintendent of schools shall be appointed by the state board of education.

b. Powers/duties: Title 7, Sec. 18-3-1 A superintendent is the chief executive officer of the state board of education, and has general supervision of the free schools of the state. He shall be charged with the general supervision of all county and city superintendents of free schools and of county and district boards of education within the state, except as provided.

4. Department of Public Instruction

a. Structure: A state Department of Education is established in Sec. 18-3-9 as the superintendent of schools "shall maintain a department of education at his office at the state capitol" and shall employ others as necessary.

b. Powers/duties: The powers and duties of the department are implied throughout the discussion of the board and the superintendent, Sec. 18-2-1 et. seq. Sec. II-A-2 and II-A-3, supra.

B. Higher Education

1. General

2. Board

a. Structure: Title 7, Sec. 18-26-3 The West Virginia board of regents consists of 12 members of whom one shall be the state superintendent of schools who serves without vote. The chairman of the advisory council of students and the advisory council of faculty serve with vote. Nine citizens are appointed, at large, by the Governor with the advice and consent of the senate, for a term of six years.

b. Powers/duties: Title 7, Sec. 18-26-8 The general determination control, supervision and management of the financial, business and educational policies and affairs of all state colleges and universities shall be under the control, supervision and management of the board of regents. In addition, the board is fully authorized and empowered to make studies and recommendations relative to all aspects of higher education in the state.

III. Provisions for Legislative Oversight Affecting Education

A. Joint Committee on Government and Finance

Title 2, Sec. 40301 The Joint Committee consists of seven members of the senate and seven members of the house of delegates. It shall be the duty of the committee to consider matters referred to it by legislative resolution, and to study and survey matters of government, finance, and claims against the state. The committee also has the power and authority to employ and supervise the legislative auditor (Title 2, Sec. 4-3-3). In addition, the committee must make studies it was directed to make by joint resolution of the legislature and continue such other studies as deemed appropriate (Sec. 4-3-3).

B. Legislature Rule-Making Review Committee

Sec. 29A-3-11 establishes a "Legislative Rule-Making Committee" made up of six members each of the house and senate. Sec. 18-2-5a provides that any proposed rule to be adopted or repealed by the state board be filed with the "legislative rule-making committee." A similar requirement is made for the board of regents (Sec. 18-26-8b).

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals:

The Governor appoints the board of regents for higher education (Title 7, Sec. 18-2-1, see II-B-2, supra), nine members of the board of education (Art. XII, Sec. 2, see II-A-2, supra).

B. Budget

Title 2, Sec. 5-1A-1, provides that the Governor submit the budget to the legislature. The legislature requires a continuous and timely flow of accurate information relative to the financial condition of the state, the need and the operations of the various agencies and departments of the state to ensure that the legislature will be furnished the information needed to discharge such responsibility.

WISCONSIN

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

  A. Lower Education

    1. General

    2. Governance: Art. X, Sec. 1 of the Constitution provides that the "supervision of public instruction shall be vested in a state superintendent" chosen by general election for a term of office to be specified by state law.

    3. Powers/duties of the state: Art. X, Sec. 1 mandates that the duties of the state superintendent be set by law. Sections 2, 4, and 5 provide for the funding arrangements of local school districts.

  B. Higher Education

    1. General: Art. X, Sec. 6 mandates that provision be made "for the establishment of a state university..."

    2. Governance

    3. Powers/duties of the state: Art. X, Sec. 6-8 collectively provide for the sale and investment of school and university lands and lands granted by the federal government for purposes of establishing a university (i.e., that the proceeds be used for education).

STATUTORY PROVISIONS

II. Establishment Provisions

  A. Lower Education

    1. General

    2. Board: There is no state board of education in Wisconsin; by opinion of the Attorney General [37 Op. Atty. Gen. 347 (1948)] such a board cannot be established by legislative enactment unless the board is subject to the state superintendent.

3. Chief State School Officer

   a. Structure: Wisconsin code 39.01 specifies that a "state superintendent of public instruction: be elected and must meet criteria of experience and certification as specified.

   b. Powers/duties: The duties of the state superintendent are enumerated in 39.02 and 115.28-115.29. The former (39.02) includes 29 provisions, including general supervision, to "stimulate interest in education," to exclude sectarianism, supervise special schools, provide programs of study and otherwise promote programs, report to the governor every two years, certify teachers and receive federal funds. Stipulations of 115.28 to some extent overlap but also include, among other provisions, that an educational program review be conducted of "a number of districts" based on the need for improvements.

4. Department of Public Instruction: An establishment of a state department of education is implied throughout 39.02 and 115.28-29 but no separate provision is made for its creation nor are any duties separately set out.

5. Other Provisions: Board of Vocational, Technical, and Adult Education

   a. Structure: Though Wisconsin does not have a state board of education, there is established (Sec. 38.02) a Board of Vocational, Technical and Adult Education with nine members appointed by the Governor for a six year term and three serving ex-officio.

   b. Powers/duties: Sec. 38.001 provides that "the board shall be responsible for the initiation, development, maintenance, and supervision of programs..." below the baccalaureate level. The board is also to "determine the organization, plans, scope and development of vocational, technical and adult education" (Sec. 38.04). The board appoints a director and a staff for the board. Its operations are roughly similar, within its designated area, as a state board and a state education agency.

B. Higher Education

1. General: Wisconsin 36.01 "The Legislature finds it in the public interest to provide a system of higher education..." graduate and undergraduate, for the people of the state. The mission includes developing human resources, discovering and disseminating knowledge and serving and stimulating society. The essential purpose is "the search for truth."

2. Board/Agency

   a. Structure: Sec. 15.91 and 36.01 et. seq. establishes a "Board of Regents" for the governance of the university system. By definition the system includes the University of Wisconsin and the Wisconsin state universities. The board is composed of 16 members, 14 of whom are appointed by the governor for a 7 year term. Two members serve ex-officio.

   b. Powers/duties: Sec. 36.09 provides for the board to have primary responsibility for the governance of the system. This includes an establishment of mission statements for each institution, degree authorization, the discontinuation of programs, and policies to guide program activities. The board appoints a president of the system and a chancellor for each institution. In addition, the board must allocate funds and adopt budgets for each institution.

III. Provisions for Legislative Oversight Affecting Education

A. Joint Committee for Review of Administrative Rules

Wisconsin code 13.56 creates a joint committee to review administrative rules. Consisting of five senators as standing committee members, the committee is to "promote adequate and proper rules," assist in interpreting statutes, hold public hearings to investigate complaints relative to such rules and may temporarily suspend (until the next session of the legislature) administrative rules with proper cause.

B. Legislative Audit Bureau

The state auditor, the deputy and the legislative audit directors form the legislative audit bureau (13.94). Aside from the normal financial audits, this bureau "shall review the performance and program accomplishments of the department...to determine whether the department carried out the policy of the legislature and the governor..." (Issues involving academic freedom are excepted.) The bureau is authorized to hire independent professional or technical experts and, "in the case of postaudits involving the performance and program accomplishments of a department, shall contract for the services...subject matter and program specialists..."

C. Joint Legislative Council: Education Committee

Under 13.81 a joint legislative council is created which in turn creates permanent committees each biennium. The education committee (13.88), made up of the two co-chairman and the ranking minority member from each house on the joint committee on finance, makes a study of the school aid formula. Its findings and recommendations are reported to the legislative council and subsequently to the legislature.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints (38.02) the board of vocational education (Sec. II-A-5, supra) and 14 of 16 regents (36.01; Sec.II-B-2, supra).

B. Budget: Sec. 16.45 requires that the governor deliver a budget to the legislature. The budget must contain (16.46) actual and estimated receipts and disbursements and the "condition of all operating funds" for the previous year. The budget must reflect expenses and recommendations for the next biennium by department or agency of the government.

WYOMING

CONSTITUTIONAL PROVISIONS

I. Establishment Provisions

A. Lower Education

1. General: Article I, Section 23, "The right of the citizens to opportunities for education should have practical recognition. The legislature shall suitably encourage means and agencies calculated to advance the sciences and liberal arts."

   Article, VII, Section 1, provides that "The legislature shall provide for the establishment and maintenance of a complete and uniform system of public instruction, embracing free elementary schools of every needed kind and grade, a university with such technical and professional departments as the public good may require and the means of the state allow, and such other institutions as may be necessary."

   In Article VII, Section 9, the legislature is to create and maintain a thorough and efficient system of public schools, adequate to the proper instruction of all youth of the state, between the ages of six and twenty-one years, free of change, and shall require that every child of sufficient mental and physical ability attend a public school during the period between six and eighteen years for a time equivalent to three years, unless educated by other means.

2. Governance: Article VII, Section 14, the general supervision of the public schools shall be entrusted to the state superintendent of public instruction, whose powers and duties shall be prescribed by law.

3. Power/duties: Article VII, Section 2-9, provides for the mandatory and proper funding of education: Section 2, perpetual school funds; Section 3, all grants and gifts to the state which are unspecified; Section 4, restriction in use of revenuer; Section 5, fines that belong to the state; Section 6, proper investment; Section 7, use of interest from school funds restricted to school use; Section 8, the destribution of school funds; and Section 7, general taxation for schools.

B. Higher Education

1. General: See Article VII, Section 1, supra.

2. Governance: Article VII, Section 16, "The legislature shall provide by law for the management of the university, its lands and other properly by a board of trustees, consisting of not

less than seven members appointed by the Governor by and with the advice and consent of the senate...." The president of the university and the superintendent of public instruction are members ex-officio, without vote.

3. Powers/duties: Article VII, Section 16. The duties and powers of the trustees shall be prescribed by law.

STATUTORY PROVISIONS

II. Establishment Provisions

A. Lower Education

1. General

2. Board

a. Structure: Section 21-2-301 The "State Board of Education" is the governing board for public education, consisting of nine members. One appointment at large shall be a certified classroom teacher at the time of appointment; and one at large shall be a certified school administrator at the time of appointment. The other seven members shall be appointed from among the lay citizens of the state who are electors of the state and shall be appointed for a six year term.

b. Powers/duties: Section 21-2-304 The control of the state department of education and the supervision of the public school system resides in the state board. They make policies, adopt rules and regulations, and have exclusive authority in matters of teacher and administrator certification. They conduct investigations within or without the state regarding educational needs and means of improving conditions to insure an adequate educational system for the state of Wyoming.

3. Chief State School Officer:

a. Structure: Section 21-2-201 "The General supervision of the public schools shall be entrusted to the state superintendent who shall be the administrative head and chief executive officer of the department of education."

b. Powers/duties: Section 21-2-202 The state superintendent makes rules and regulations as may be necessary or desirable for the proper and effective administration of the state educational system. The superintendent is responsible for the state department of education and local boards and superintendents, and is to confer with the trustees and the college of education of the University of Wyoming concerning courses of study.

4. Department of Public Instruction:

   a. Structure: Section 21-2-204 "The State Department of Education" is an agency of state government, established by the constitution and is an inclusive title designating the state board, the state superintendent and whatever division and positions established to carry out the purposes of education.

   b. Powers/duties: Section 21-2-301 _et_. _seq._ applies; Section II-A-2, _supra_. Section 21-2-201 _et_. _seq_. also applies; Section II-A-3, _supra_.

B. Higher Education

   1. General

   2. Board/Agency

      a. Structure: Section 21-16-403 The Higher Education Council consists of nine members. Five of these are appointed by the governor to serve for a five year term. The Governor and state superintendent shall serve as ex-officio members. One appointee from the senate and one from the house shall be appointed for a two year term.

      b. Powers/duties: Section 21-16-405 The council shall establish and maintain records and data as to higher education facilities and programs, it shall continuously analyze all areas of higher education with the objective of coordinating and increasing the effectiveness of higher education supported by the state; and study personnel, budgets, expenditures and administrative policies and procedures in higher education and make recommendations to the institution of higher education and to the legislature.

C. Additional Provisions

   Community College Commission

   1. General

   2. Board/Agency

      a. Structure: Section 21-18-210 The commission consists of nine members to be appointed by the governor with the advice and consent of the senate. All terms shall be for four years.

      b. Powers/duties: Section 21-18-211 The community college commission shall study the educational and financial needs of the state in all areas and fields affected by the operations of community colleges and make recommendations to the legislature for meeting the needs. They shall study personnel, administrative and fiscal policies and procedures, prescribe minimum standards for community colleges, and act as a recipient of and the administrator for all federal funds and programs designed to benefit community colleges.

III. Legislative Provisions Affecting Education

A. Legislative Auditor

Title 6, Section 28-8-107 The duties of the audit division are to perform an examination of accounts and operations of all state departments, agencies, commissions, boards and institutions. To this end, the legislative auditor shall periodically conduct post-audits dealing with the utilization of all monies received and expended by all state departments, agencies commissions, boards and institutions and submit an audit report to the management council and each member of the legislature. Directed by the management council, the legislative auditor shall audit any entity receiving state funds either directly or indirectly.

B. Administrative Regulation Review

Section 28-9-102 The Legislative Management Council may examine the administrative rules and regulations of any agency to determine if they properly implement legislative intent, are within the scope of delegated authority, and are lawfully adopted.

IV. Gubernatorial Provisions Affecting Education

A. Appointments/Approvals: The governor appoints the seven board members of the trustees for higher education (Article VII, Section 6, Section I-B-2, _supra_). The nine members of the board of education (Section II-A-2-30; Section II-A-2, _supra_), five of the nine members of the higher education council, (Section 21-16-403; Section II-B-2, _supra_), and all nine members of the community college commission (Section 21-18-210; Section II-B-3 _supra_).

B. Budget: Section 9-3-2013 provides that the budget division prepare a budget for the governor to submit to the legislature (with form, content and procedure prepared with the advice of the chairman of the joint appropriations interim committee). Section 9-3-2014 provides for the specific content and level of budget detail and Section 9-3-2019 mandates gubernatorial presentation of the budget to the legislature.

GOVERNANCE OF ELEMENTARY/SECONDARY EDUCATION

There are a variety of structural patterns for governing elementary/secondary education among the states. The richness of the variety is only hinted at in chart form as, for example, the cross-over of levels of broad authority is not reflected here, but can be appreciated by reading the statute summaries. Chart 1 is provided for quick reference only.

Wisconsin has no state board. The other boards range from a low of three elected in Mississippi to a high of 24 elected in Texas to a pattern of 18 of 19 appointed in Indiana and three appointed, eight elected and one ex-officio in Louisiana. There are five gubernatorially appointed chiefs, 26 board appointed, and 18 elected. But again this information is not an entirely accurate representation as the advisement and confirmation process extant in many states is not shown. Once again, a careful reading of the statutes and, ultimately, discussions with those persons involved in each state is necessary to determine how the process actually works.

Perhaps it is most important to note that even though the research in the effects of structural patterns is not very extensive, the literature does not claim any significant differences of effects among the patterns. *That is, it seems to make very little difference in the overall education policy of the state whether a board is elected by the citizenry (or the legislature) or appointed by the governor. Similarly, it makes little difference, in terms of general policy measures, whether the chief is elected or appointed by either the board or the governor.

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*Campbell and Mazzoni, _op_. _cit_.

GOVERNANCE OF
ELEMENTARY/SECONDARY EDUCATION
CHART I

STATE	BOARD MEMBERSHIP Gov. Appt.	Elected/ Ex-Officio	Term	Total Board Membership	Chief Elec.	Appt. by
ALABAMA	-	8 elected; 1 ex-officio	4 yrs.	9	X	Board
ALASKA	7		5 yrs.	7		Board
ARIZONA	8	1 ex-officio (CSSO)	4 yrs.	9	X	
ARKANSAS	9	1 ex-officio (CSSO)	9 yrs.	10		Board
CALIFORNIA	10		4 yrs.	10	X	
COLORADO	-	All elected	6 yrs.	5		Board
CONNECTICUT	9		6 yrs.	9		Board
DELAWARE	7		6 yrs.	7		Board
FLORIDA	-	All ex-officio		7	X	
GEORGIA	10		7 yrs.	10	X	
HAWAII	-	All elected	4 yrs.	9		Board
IDAHO	7	1 ex-officio (CSSO)	5 yrs.	8	X	
ILLINOIS	17		6 yrs.	17		Board
INDIANA	18	1 ex-officio (CCSO)	4 yrs.	19	X	
IOWA	9		6 yrs.	9		Board
KANSAS	-	All elected	4 yrs.	10		Board
KENTUCKY	7	2 ex-officio and CSSO as Executive Head		9	X	
LOUISIANA	3	8 elected	6 yrs.	11	X	
MAINE	9		5 yrs.	9		Gov.
MARYLAND	9		5 yrs.	9		Board
MASSACHUSETTS	11	2 ex-officio (non-voting) 1 elected student	5 yrs.	14		Board
MICHIGAN	-	8 elected; 2 ex-officio (Gov. & CSSO)	8 yrs.	10		Board
MINNESOTA	9		6 yrs.	9		Board
MISSISSIPPI	-	All elected	4 yrs.	3	X	
MISSOURI	8		8 yrs.	8		Board
MONTANA	14	3 ex-officio (Gov.; Chief; SHEO)	7 yrs.	17	X	
NEBRASKA	-	All elected	4 yrs.	8		Board
NEVADA	-	All elected	4 yrs.	9		
NEW HAMPSHIRE	7		5 yrs.	7		Board
NEW JERSEY	11	2 ex-officio (Chief; Hi.Ed. Bd. Rep.)	6 yrs.	13		Gov.
NEW MEXICO	-	All elected	6 yrs.	15		Board
NEW YORK	-	All elected by legislature	7 yrs.	15		Board
NORTH CAROLINA	11	2 ex-officio (Lt. Gov.; state treas.)	8 yrs.	13	X	

CHART 1

(Continued)

STATE	BOARD MEMBERSHIP Gov. Appt.	Elected/ Ex-Officio	Term	Total Board Membership	Chief Elec.	Chief Appt. by
NORTH DAKOTA	7	1 ex-officio (chief)	6 yrs.	8	X	
OHIO	-	All elected	6 yrs.	23		Board
OKLAHOMA	6	1 ex-officio (chief)	6 yrs.	7	X	
OREGON	7		4 yrs.	7	X	
PENNSYLVANIA	17		6 yrs.	17		Gov.
RHODE ISLAND	13	2 ex-officio (Chair: House & Senate Finance Com.)	3 yrs.	15		Board
SOUTH CAROLINA	-	16 elected by legislature, 1 ex-officio (chief)	4 yrs.	17	X	
SOUTH DAKOTA	7		5 yrs.	7		Board
TENNESSEE	12	2 ex-officio (Gov.; CSSO)	9 yrs.	14		Gov.
TEXAS	-	All elected	6 yrs.	24		Board
UTAH	-	All elected	6 yrs.	11		Board
VERMONT	7		6 yrs.	7		Board
VIRGINIA	9		4 yrs.	9		Gov.
WASHINGTON	-	2 from each congressional district, & at large		-	X	
WEST VIRGINIA	9	2 ex-officio (chief; SHEO)	9 yrs.	11		Board
WISCONSIN	-		-	-		Board
WYOMING	9	1 ex-officio (CSSO non-voting)	6 yrs.	9	X	

GOVERNANCE OF POST-SECONDARY EDUCATION

As demonstrated in Chart 2, the size, constitution, and manner of appointment of statewide board of higher education varies greatly. Perhaps the most significant difference among states shown here is that of whether the board is a governing board, having direct control over the shape of the several institutions under its jurisdiction, or a coordinating board the powers of which are generally more indirect in pointing up duplication of programs, objectives and missions. Even here, however, the destinations are sometimes blurred, for some of the coordinating boards, it is clear from reading the statutes, have what seem to be rather direct powers in approving or disapproving new program and degree authorizations and eliminating non-productive programs.

Wyoming stands as the only state without a formal higher education board or commission of some type. But it would not be justifiable to assume homogenity among the other 49 states having boards as some of these function as primarily 1202 planning boards and virtually all have constitutional and/or statutory provisions for some institutional autonomy. Indeed, many boards of individual institutions have governor-appointed boards of control. Other institutions are members of a system of higher education which has such a board but which is nevertheless only one part of the total system of higher education offered by a state. California, for example, has a University of California system (and board), a state college system (and board) and a community college system (and board) as well as the statewide Postsecondary Education Commission. The intricacies and delicacies of governance among and between the various boards can be properly appreciated only through an in-depth and state by state case study.

GOVERNANCE OF
POST-SECONDARY EDUCATION
CHART 2

STATE	BOARD MEMBERSHIP				Board	
	Gov. Appt.	Elected/ Ex-Officio[1]	Term[2]	Total Board Membership	Coord.	Gov.
ALABAMA	9		9 yrs.	9	X	
ALASKA	11		8 yrs.	11		X
ARIZONA (Hi.Ed.)	8	2 ex-officio	8 yrs.	10		X
ARKANSAS	10		7 yrs.	10	X	
CALIFORNIA	4	16 appointed by others; 3 ex-officio	Various	23		
COLORADO	9		4 yrs.	9	X	
CONNECTICUT	6	5 other boards; 6 legislators; 4 others (see statutes)	6 yrs.	21	X	
DELAWARE						
FLORIDA						
GEORGIA	15		7 yrs.	15		X
HAWAII	11		4 yrs.	11		X
IDAHO	7	1 ex-officio	5 yrs.	8		X
ILLINOIS (Hi.Ed.)	10	1 student; 5 institional	6 yrs.	17	X	
INDIANA	12		4 yrs.	12	X	
IOWA	9		6 yrs.	9		X
KANSAS	9		4 yrs.	9		X
KENTUCKY	10	11 ex-officio	4 yrs.	21	X	
LOUISIANA	15		6 yrs.	15	X	
MAINE	14	1 ex-officio	7 yrs.	15		X
MARYLAND (Hi.Ed.)	11		5 yrs.	11	X	
MASSACHUSETTS	7	5 elected by boards	5 yrs.	12	X	
MICHIGAN	-	8 elected; 2 ex-officio (Gov. & CSSO)	8 yrs.	10	X	
MINNESOTA	11		4 yrs.	11	X	
MISSISSIPPI	13		12 yrs.	13		X
MISSOURI	9		6 yrs.	9	X	
MONTANA	7	3 ex-officio	7 yrs.	10		X
NEBRASKA	6	6 from other boards	6 yrs.	12	X	
NEVADA	-	All elected	6 yrs.	9		X
NEW HAMPSHIRE	7	4 ex-officio; 10 app'ted by other than Gov.	5 yrs.	21	X	
NEW JERSEY	9	2 ex-officio; 7 from institutions	6 yrs.	18	X	
NEW MEXICO	13	2 ex-officio students	6 yrs.		X	
NEW YORK	-	All elected by legislature	7 yrs.	15	X	
NORTH CAROLINA	-	All elected by legislature	8 yrs.	32		X

CHART 2

(Continued)

STATE	BOARD MEMBERSHIP Gov. Appt.	 Elected/ Ex-Officio	Term	Total Board Membership	Board Coord.	 Gov.
NORTH DAKOTA	7		7 yrs.	7		X
OHIO	9	The Chair of both House & Senate Educ. Committees (2)	9 yrs.	11	X	
OKLAHOMA	9		9 yrs.	9	X	
OREGON	7		4 yrs.	7	X	
PENNSYLVANIA						
RHODE ISLAND	13	The Chair of both house & Senate Finance Committees(2)	3 yrs.	15		X
SOUTH CAROLINA	12	6 selected by legislature	4 yrs.	18	X	
SOUTH DAKOTA	8		6 yrs.	8		X
TENNESSEE	9		9 yrs.	9	X	
TEXAS	18		6 yrs.	18	X	
UTAH	16		6 yrs.	16		X
VERMONT						
VIRGINIA	11		4 yrs.	11	X	
WASHINGTON	9	Various representatives, most app'ted by Gov.	Various	16	X	
WEST VIRGINIA	10		6 yrs.	12		X
WISCONSIN	14	2 ex-officio	7 yrs.	16		X
WYOMING	No Higher Education Board					

Footnotes

1. As some states have numerous ex-officio appointments, these are not enumerated here; see statute summaries.

2. The terms of office do not apply to ex-officio members nor to board members who are students or who hold office by virtue of being selected as a representative from another body.

REVIEW OF ADMINISTRATIVE RULES AND REGULATIONS

Even a cursory scanning of the state-by-state summaries will reveal that not all provisions regarding review of administrative rules and regulations have been included. Indeed those reviews which did not involve legislative oversight were omitted as were states which explicitly excluded education from the review procedures.

Chart 3 depicts all states, however, in a highly abbreviated form. The purpose is to demonstrate the variability of procedures involved and to give some sense of the current status of rules and regulation procedures. The exclusions noted are those which could be clearly read from the statutes, though it may well be that the reality of the exempting process for education is, in effect, much more broad than this chart suggests.

Administrative law is certainly not a new phenomenon, though it has in recent decades come to play an increasingly large part in the governance and control of every sector, public and private, of our political and economic life. Such law has, it seems, grown up with public bureaucracies such that as bureaucracies expand, so does the body of law which they promulgate.

Legislatures have been aware of the growth in law-by-bureaucrats and have not been unattentive to the need to "regulate the regulators" at least with uniform procedures for filing rules and regulations and in allowing a bit of sunlight into the process. On the latter point, for example, it is instructive to note that every state has included in its administrative procedures review act a mandatory requirement for public notice to be given of pending rules and regulations. But on balance it has been only within the past two decades that legislative activity in this area has taken on the form and level which is reflected here. Many of the states which have gone to a legislative review have done so within that period, with much recent activity in the form of revisions to existing law during the 1970's. Basically, this body of law is intended to ensure efficient and economic agency operations, effectiveness of programs and, above all, that legislative intent is being carried out.

The future of legislative activity in the review of administrative rules and regulations is quite readily predictable. There will be more and closer scrutiny. But it is not at all clear how this will affect education, not because legislators seem shy in legislating educational matters, but rather because other review processes involving quality, money and curriculum seem more attractive to an active legislature.

REVIEW OF ADMINISTRATIVE

RULES AND REGULATIONS

CHART 3

	CODE	EXCLUSIONS		PUBLIC NOTICE REQUIRED	FILE FOR ADOPTION	APPROVAL	COMMITTEE	COMMENT
		K-12	Hi.Ed.					
Alabama	N/A							No Admin. Procedure Act
Alaska	§44.62.010			Yes	Lt. Gov.	Legislative	Admin. Regulation Review Committee	
Arizona	§41-1001			Yes	Sec. of State	AG		
Arkansas	Ch. 5-701			Yes	Leg. Council	Legislative	Legislative Council	
California	§11370			Yes	Sen. Com. on Rules Sec. of State Speaker of House	Sec. of State		
Colorado	§24-4-101	X[1]	X[1]	Yes	Com. on Legal Services	Legislative	Com. on Legal Services; appropriate legislative committee	Any legislator may amend rule
Connecticut	§4-166			Yes	AG Review Commission	Legislative	Legislative Regulatory Review Commission	All disapproved regulations to legislature
Delaware	29§6401			Yes	No filing required			No provision for legislative review
Florida	§120.021			Yes	Dep't of State			
Georgia	§3A-101	X	X	Yes	Sec. of State	Legislative	Legislative Council; Appropriate legislative committee	
Hawaii	§91-1			Yes	Gov.	Gov.		No provision for legislative review
Idaho	§67-5202			Yes	Sec. of Senate Clerk of House	Legislative	Standing Committees	Members of legislature may review

CHART 3 (continued)

	CODE	EXCLUSIONS		PUBLIC NOTICE REQUIRED	FILE FOR ADOPTION	APPROVAL	COMMITTEE	COMMENT
		K-12	Hi.Ed.					
Illinois	127§1001			Yes	Sec. of State Com. on Rules	Legislative	Joint Committee on Administrative Rules	
Indiana	§4-22-2-1			Yes	Sec. of State Gov.	Gov.		No provision for legislative review
Iowa	§17A.1			Yes	Sec. of State	AG Legislative Gov.	Administrative Rules Review Committee Appropriate standing committee	
Kansas	§77-416	X^2	X^2	Yes	Sec. of Admin.	AG Legislative	Joint Committee on Administrative Rules and Regulations	Full legislature to review disapprovals
Kentucky	§13-090			Yes	Leg. Research Commission	Legislative	Administrative Regulations Review Subcommittee; Appropriate standing committee	Full legislative review
Louisiana	§49-951			Yes	Standing Com. Presiding Officers of legislature	Legislative Gov.	Appropriate standing committee	Full legislature may rescind committee action
Maine		X^3	X^4	Yes	AG Sec. of State	Legislative	Appropriate standing committee	All rules submitted in five years
Maryland	41§250A			Yes	Clerk of Circuit Ct.; State Dep't of Leg. Reference	Legislative (restricted: see note)	State Dep't of Legislative Reference	Legislative approval needed for any rule which increases expenditures
Massachusetts	30A§1			Yes	Sec. of State			No provision for legislative review
Michigan	§24.201	X	X	Yes				Public notice only
Minnesota	§15.0412			Yes	AG	AG Legislative	Legislative Commission to Review Administrative Rules; standing committees	
Mississippi	§25-43-1			Yes	Sec. of State			No provision for legislative review
Missouri	§536.010	X^5	X^5	Yes	Sec. of State	Legislative	Committee on Admin. Rules	

CHART 3 (continued)

	CODE	EXCLUSIONS K-12	EXCLUSIONS Hi.Ed.	PUBLIC NOTICE REQUIRED	FILE FOR ADOPTION	APPROVAL	COMMITTEE	COMMENT
Montana	1-1.0§1000		x[6]	Yes	Sec. of State	Legislative	Admin. Code Committee	May poll legislature by mail ballot
Nebraska	§84-903			Yes	AG	AG, Gov., Legislative	Legislature's Committee on Admin. Agency Rules	
Nevada	§2338.010	x[7]	x	Yes	Sec. of State	Legislative	Nevada Legislative Commission; Appropriate standing committee	
New Hampshire	§541A			Yes	Director of Legislative Services	AG (see comment)		AG reviews on "standing of rule" only No provision for legislative review
New Jersey	Const. Art. 5 Sec. 6			Yes	Sec. of State	Dep't of State		No provision for legislative review
New Mexico	§4-32-1			Yes	Sec. of State			No provision for legislative review
New York	82§202			Yes	Sec. of State; Pres. pro. tem.; Speaker			No stratutory provision for legislative review
North Carolina			x[8]	Yes	AG; Director of Leg. Services	Legislative	Admin. Rules Review Committee; Legislative Services Commission	May go to Leg. Services Commission or to full legislative review.
North-Dakota	§28-32-01	x[9]		Yes	AG	AG		No provision for legislative review
Ohio	§119-01			Yes	Clerk of Senate	Legislative	Joint Committee on Agency Rule Review	Legislature must act (within 60 days)
Oklahoma			x[10]	Yes	Pres. pro. tem.; Speaker	Legislative	Legislative Council	Disapproval by simple resolution in either house
Oregon	§137-01-000			Yes	Sec. of State Leg. Counsel	Legislative		Any member of legislative may request review

CHART 3 (continued)

	CODE	EXCLUSIONS K-12	EXCLUSIONS Hi.Ed.	PUBLIC NOTICE REQUIRED	FILE FOR ADOPTION	APPROVAL	COMMITTEE	COMMENT
Pennsylvania	1§7.1			Yes				Public notice only required
Rhode Island	§42-35-2			Yes	Sec. of State			No provision for legislative review
South Carolina	§1-23-90	X[11]	X[11]	Yes	Leg. Counsel	Legislative	Appropriate standing committee	
South Dakota	§1-26-1			Yes	AG; Bureau of Finance & Mgt.	Legislative	Interim Rules Review Committee	Rulings (disapprovals must be upheld by legislature)
Tennessee	§4-507		X[12]	Yes	Sec. of State	AG Legislative	Appropriate standing committee	
Texas	Art. 6252-13a §36-41-1		X	Yes	Sec. of State	Legislative	Appropriate standing committee	
Utah	§63-41-1			Yes	State Archivist	Legislative	Legislative Management Committee	
Vermont	3§801			Yes	Sec. of State; Leg. Council; Rules Committee	Legislative	Legislative Committee on Admin. Rules; appropriate standing committee	Full legislature may be brought into procedure for disapprovals
Virginia	§9-6.14:17			Yes	Director, Leg. Services	Legislative	Appropriate legislative committee	Committee reviews rules involving more than 25 persons or $25,000
Washington	§34.08.010		X	Yes	Code Advisor; Sec. of Senate Clerk of House	Legislative	Majority/minority consensus; leg. council; Appropriate leg. committee	Leg. council may review all agency rules biennially
West Virginia	§29A-1-1			Yes	Sec. of State	Legislative	Leg. Rule Making Review Committee	Full legislative review
Wisconsin	§227.01			Yes	Sec. of State Revisor of Statutes		Joint Leg. Committee for the Review of Admin. Rules	Full legislature must review disapprovals
Wyoming	§9.4-1-1			Yes	AG; Sec. of State Leg. Services	Gov. Legislative	Leg. Management Council	Gov. may approve or disapprove ruling by council; disapprovals to full legislature.

1. Excludes Title 23 except Art. 8-9, Art. 2-3, Art. 30 pts. 2-4. Art. 32 pt. 6.
2. Excludes matters of curriculum, administration, conduct and discipline
3. Excludes school districts
4. Exclusion is for the University of Maine and the Maine Maritime Academy
5. Exclusion is only for state plans filed under federal regulations
6. Exclusion for the Board of Regents and the University of Montana System
7. Exclusion for contested cases
8. Exempted except for judicial review
9. Excepted by courts
10. Excluded except for cases involving student expulsion of over one week
11. Colleges, universities, technical colleges, schools and other educational institutions excluded regarding curriculum, admissions, dismissals, fees, and charges and conferring of degrees.
12. Included except for rules regarding discipline.

GUBERNATORIAL PROVISIONS

The likely very great informal powers of the governor in education have not been addressed. In point of fact, not even all of the formal powers have been described, though certainly two of the more important such powers, that of appointment and budget development, have been cited.

As is evident from Chart 4, the governor is directly involved in budget preparation in all states save three: Mississippi, North Dakota and Oklahoma. As made clear in the descriptive text of each state, budget preparation is an often highly detailed procedure. The budget document not uncommonly requires that program, goals, objectives of the like be spelled out, this probably having the effect of centralizing discretionary judgements on how large appropriations may be spent. Put differently, the amount of the detail increasingly required in the state budget is almost certainly having the effect of taking decision authority from the local units of control. Both the chief executive and the legislature "benefit" from the shift of power.

In addition to his or her budget authority, the governor also appoints at least some state board members in 34 (of 49) states and sits on the board in two other states (see Chart), and five chief state school officers are gubernatorial appointments. Forty-six (of 49) states have governor-appointed members on a higher education (statewide) board and numerous appointments on single-institution boards. It is not presumed that each appointee always does the governor's bidding, but the tone and philosophy of education in the state is, it would seem, almost certainly to be influenced by his or her appointments.

STATE BUDGET AUTHORITY
CHART 4

State or other jurisdiction	*Preparation of budget*	*Special budget review agency in legislative branch*
Alabama	Governor; Finance Director (G)	Legislative Fiscal Officer (L); Senate Finance and Taxation Committee (L); House Ways and Means Committee (L)
Alaska	Governor; Dept. of Administration (d)	Legislative Budget and Audit Committee (L)
Arizona	Governor; Finance Div., Budget Office, Dept. of Administration (G)	Joint Legislative Budget Committee (L)
Arkansas	Governor; Director, Dept. of Finance and Administration and its Office of Budget (G)	Legislative Council, Bureau of Legislative Research (L)
California	Governor; Finance Director (G)	Joint Legislative Budget Committee (L)
Colorado	Governor; Office of State Planning and Budgeting (G)	Joint Budget Committee (L)
Connecticut	Governor; Div. of Budget and Financial Management, Office of Policy and Management (G)	Office of Fiscal Analysis (L)
Delaware	Governor; Budget Director (G)	Joint Legislative Finance Committee (L); Controller General (L)
Florida	Governor; Dept. of Administration (G)	House and Senate Appropriation Committees (L)
Georgia	Governor; Office of Planning and Budget (G)	Office of Legislative Budget Analyst (L)
Hawaii	Governor; Director of Finance (G)	Legislative Auditor (L)
Idaho	Governor; Administrator, Div. of Budget, Policy Planning, and Coordination (d)	Legislative Fiscal Office, Joint Finance-Appropriations Committee (L)
Illinois	Governor; Budget Bureau (G)	Fiscal and Economic Commission (L); Senate and House Appropriations Committees (L)
Indiana	State Budget Agency (G); Budget Committee (g)	Senate Finance Committee (L); House Ways and Means Committee (L); Legislative Council (L)
Iowa	Governor; Budget Dept., Office of Comptroller (G)	Legislative Fiscal Div., Legislative Research Dept. (L)
Kansas	Governor; Div. of the Budget, Dept. of Administration (i)	Legislative Budget Committee, Legislative Coordinating Council (L); Legislative Research Dept. (L)
Kentucky	Governor; Secretary, Executive Dept. for Finance and Administration (G); Executive Director, Office for Policy and Management (k)	Appropriations and Revenue Committees (L)
Louisiana	Governor; Commissioner of Administration (G); Budget Office (i)	Legislative Fiscal Office (L)
Maine	Governor; Budget Officer (l)	Joint Committee on Appropriations and Financial Affairs (L); Legislative Finance Officer (L)
Maryland	Governor; Secretary, Dept. of Budget and Fiscal Planning (G)	Div. of Budget Review, Dept. of Fiscal Services (L)
Massachusetts	Governor; Budget Director, Executive Office for Administration and Finance (l)	House and Senate Ways and Means Committees (L)
Michigan	Governor; Budget Director (G)	House Fiscal Agency (L); House Appropriations Committee, Senate Appropriations Committee, and Senate Fiscal Agency (L)
Minnesota	Governor; Commissioner of Administration (G); Commissioner of Finance (G)	House Appropriations Committee (L); Senate Finance Committee (L)
Mississippi	Commission of Budget and Accounting (m)	(m)
Missouri	Governor; Commissioner of Administration (G)	Legislative Committee on State Fiscal Affairs (L)
Montana	Governor; Office of Budget and Program Planning (G)	Legislative Fiscal Analyst and Finance Committee (L)
Nebraska	Governor; Budget Administrator, Dept. of Administrative Services (n)	Legislative Fiscal Analyst, Legislative Council (L); Legislative Budget Committee (L)
Nevada	Governor; Budget Director (G)	Office of Fiscal Analyst, Legislative Counsel Bureau (L)
New Hampshire	Governor; Comptroller (G)	Legislative Budget Assistant (L)
New Jersey	Governor; Director of Budget and Accounting, Treasury Dept. (G)	Director, Budget Review, Office of Fiscal Affairs (L)
New Mexico	Governor; Chief, Budget Div., Dept. of Finance and Administration (d)	Legislative Finance Committee (L)
New York	Governor; Budget Director (G)	Legislative Finance Committees (L)
North Carolina	Governor; Div. of State Budget, Dept. of Administration (p,q)	Advisory Budget Commission (L & G)
North Dakota	Budget Director, Dept. of Accounts and Purchases (G)	Budget Committee, Legislative Council (L)
Ohio	Governor; Director, Budget and Management (G)	Legislative Budget Office (L)
Oklahoma	Director, Finance Dept. (G)	Div. of Fiscal Services, Legislative Council (L)
Oregon	Governor; Director, Executive Dept. (G)	Legislative Fiscal Office (L)
Pennsylvania	Governor; Budget Secretary (G)	House and Senate Appropriations Committees (L); Legislative Budget and Finance Committee (L)
Rhode Island	Governor; Budget Div., Dept. of Administration (d)	House Finance Committee staff (L)
South Carolina	State Budget and Control Board (r)	None
South Dakota	Governor, Commissioner Bureau of Finance and Management (G)	Legislative Research Council (L)
Tennessee	Governor; Budget Director (G)	Fiscal Review Committee (L)
Texas	Governor; Budget Director (G); Legislative Budget Board (L)	Legislative Budget Board (L)
Utah	Governor; Directors of Finance and Budget (G)	Office of Legislative Fiscal Analyst (L)
Vermont	Governor; Secretary of Administration (G); Commissioner, Budget and Management Dept. (G)	Joint Legislative Fiscal Review Committee (L)
Virginia	Governor; Secretary of Administration and Finance (G); Director, Dept. of Planning and Budget (G)	House Appropriations Committee and Senate Finance Committee (L)
Washington	Governor; Director, Office of Financial Management (G)	House Appropriations and Senate Ways and Means Committees (L)
West Virginia	Governor; Commissioner and Budget Div., Dept. of Finance and Administration (G)(J)	Legislative Auditor, Joint Committee on Government and Finance (L)
Wisconsin	Governor, Secretary, Dept. of Administration (G)	Legislative Fiscal Bureau (L)
Wyoming	Governor; Director, Budget Div., Dept. of Administration and Fiscal Control (G)	Legislative Services Office (L)

Source: Book of States, 1978-79